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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2019

| Issue# | Rules Due Date | Date of Issue |
|---------------|-----------------------|----------------------|
| 1 | December 26, 2018 | January 4, 2019 |
| 2 | December 31, 2018 | January 11, 2019 |
| 3 | January 7, 2019 | January 18, 2019 |
| 4 | January 14, 2019 | January 25, 2019 |
| 5 | January 22, 2019 | February 1, 2019 |
| 6 | January 28, 2019 | February 8, 2019 |
| 7 | February 4, 2019 | February 15, 2019 |
| 8 | February 11, 2019 | February 22, 2019 |
| 9 | February 19, 2019 | March 1, 2019 |
| 10 | February 25, 2019 | March 8, 2019 |
| 11 | March 4, 2019 | March 15, 2019 |
| 12 | March 11, 2019 | March 22, 2019 |
| 13 | March 18, 2019 | March 29, 2019 |
| 14 | March 25, 2019 | April 5, 2019 |
| 15 | April 1, 2019 | April 12, 2019 |
| 16 | April 8, 2019 | April 19, 2019 |
| 17 | April 15, 2019 | April 26, 2019 |
| 18 | April 22, 2019 | May 3, 2019 |
| 19 | April 29, 2019 | May 10, 2019 |
| 20 | May 6, 2019 | May 17, 2019 |
| 21 | May 13, 2019 | May 24, 2019 |

| | | |
|----|--------------------|--------------------|
| 22 | May 20, 2019 | May 31, 2019 |
| 23 | May 28, 2019 | June 7, 2019 |
| 24 | June 3, 2019 | June 14, 2019 |
| 25 | June 10, 2019 | June 21, 2019 |
| 26 | June 17, 2019 | June 28, 2019 |
| 27 | June 24, 2019 | July 5, 2019 |
| 28 | July 1, 2019 | July 12, 2019 |
| 29 | July 8, 2019 | July 19, 2019 |
| 30 | July 15, 2019 | July 26, 2019 |
| 31 | July 22, 2019 | August 2, 2019 |
| 32 | July 29, 2019 | August 9, 2019 |
| 33 | August 5, 2019 | August 16, 2019 |
| 34 | August 12, 2019 | August 23, 2019 |
| 35 | August 19, 2019 | August 30, 2019 |
| 36 | August 26, 2019 | September 6, 2019 |
| 37 | September 3, 2019 | September 13, 2019 |
| 38 | September 9, 2019 | September 20, 2019 |
| 39 | September 16, 2019 | September 27, 2019 |
| 40 | September 23, 2019 | October 4, 2019 |
| 41 | September 30, 2019 | October 11, 2019 |
| 42 | October 7, 2019 | October 18, 2019 |
| 43 | October 15, 2019 | October 25, 2019 |
| 44 | October 21, 2019 | November 1, 2019 |
| 45 | October 28, 2019 | November 8, 2019 |
| 46 | November 4, 2019 | November 15, 2019 |
| 47 | November 12, 2019 | November 22, 2019 |
| 48 | November 18, 2019 | December 2, 2019 |
| 49 | November 25, 2019 | December 6, 2019 |
| 50 | December 2, 2019 | December 13, 2019 |
| 51 | December 9, 2019 | December 20, 2019 |
| 52 | December 16, 2019 | December 27, 2019 |

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Development, Annual Review, Coordination of Chemical Safety Contingency Plans
- 2) Code Citation: 29 Ill. Adm. Code 610
- 3)

| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
|-------------------------|--------------------------|
| 610.10 | Amendment |
| 610.20 | Amendment |
| 610.30 | Amendment |
| 610.40 | Amendment |
| 610.50 | Amendment |
- 4) Statutory Authority: Implementing and authorized by Section 5 of the Illinois Chemical Safety Act [430 ILCS 45/5] and Section 5 of the Illinois Emergency Management Agency Act [20 ILCS 3305/5].
- 5) A Complete Description of the Subjects and Issues Involved: IEMA is proposing amendments to Part 610 to update the rule to current practice and eliminate obsolete provisions.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill Adm. Code 100.355:
None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may also be submitted in writing

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Traci Burton
Paralegal Assistant
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

217/785-9860

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities or not-for-profit corporations affected: The Agency believes that this amendment could have an impact on small businesses, small municipalities or not-for-profit corporations if they possess chemical substances and are required to complete a chemical safety contingency plan pursuant to the Illinois Chemical Safety Act [430 ILCS 45].
- B) Reporting, bookkeeping or other procedures required for compliance: Businesses must provide their chemical safety contingency plan and all updates to local emergency management agencies, local emergency planning committees and local response agencies and coordinate with those agencies in regard to the emergency operations plan.
- C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of business subject to the proposed rule:

- 11 Agriculture, Forestry, Fishing and Hunting
21 Mining
23 Construction
31-33 Manufacturing
48-49 Transportation and Warehousing
81 Other Services (except Public Administration)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

- B) Categories that the agency reasonably believes the rulemaking will impact, including:
- ii. regulatory requirements
 - x. other potential impacted categories
- 15) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on the last two regulatory agendas as they were not anticipated to move forward at the time. However, it has been made a priority in response to an administrative issue regarding Title 29 discovered by staff of the Secretary of State and the Joint Committee on Administrative Rules.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 29: EMERGENCY SERVICES, DISASTERS, AND CIVIL DEFENSE
CHAPTER I: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER f: CHEMICAL SAFETYPART 610
DEVELOPMENT, ANNUAL REVIEW, COORDINATION
OF CHEMICAL SAFETY CONTINGENCY PLANS

Section

| | |
|--------|---|
| 610.10 | Purpose |
| 610.20 | Definitions |
| 610.30 | Categories and Jurisdictions <u>jurisdictions</u> of Local Response Agencies <u>local response agencies</u> |
| 610.40 | Communications and Coordination <u>coordination</u> |
| 610.50 | Required Notifications <u>Notice to the Emergency Services and Disaster Agency</u> |

AUTHORITY: Implementing Section 5 of the Illinois Chemical Safety Act [430 ILCS 45] and authorized by Section 5 of the Illinois Emergency Management Agency Act [20 ILCS 3305].

SOURCE: Adopted at 10 Ill. Reg. 10121, effective May 22, 1986; amended at 43 Ill. Reg. _____, effective _____.

Section 610.10 Purpose

- a) ~~This Part establishes~~These rules establish the ~~specific~~ coordination activities ~~that should~~which shall take place between business and a local ~~geographical~~ jurisdiction's emergency preparedness ~~planning~~ and ~~emergency~~ response agencies as they relate to the initial development and annual review of chemical safety contingency plans and procedures. They are designed to ensure that a local ~~geographical~~ jurisdiction's ~~emergency preparedness~~planning and response personnel and business representatives are fully knowledgeable of each organization's capabilities and are prepared to respond to the release of chemical substances into the environment. Although ~~this Part promotes~~these rules promote the development of local governmental chemical safety planning and response capabilities, ~~it is~~they are in no way designed to inhibit or in any way discourage the use of local intergovernmental mutual aid ~~pacts or~~ agreements.
- b) In addition, ~~this Part prescribes~~these rules prescribe the method ~~and procedures~~ for providing notice to the Illinois Emergency ~~Management~~Services and Disaster

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Agency required under Section 4 of the Illinois Chemical Safety Act [430 ILCS 45]~~(ILL. Rev. Stat. 1985, ch. 111½, pars. 951 et. seq.)~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 610.20 Definitions

"Act" means the Illinois Chemical Safety Act [430 ILCS 45]~~(P.A. 84-852 effective September 23, 1985)~~.

~~"Agency" means the Illinois Environmental Protection Agency.~~

"Business" means any individual, partnership, corporation or association in the State engaged in a business operation that has 5 or more full-time employees, or 20 or more part-time employees, and that is properly assigned or included in the Standard Industrial Classifications (SIC) identified in Section 3 of the Act or any facility not covered by the above SIC codes that is subject to the provisions of section 302 of the federal Emergency Planning and Community Right-to-Know Act of 1986 and that is found by the Illinois Environmental Protection Agency to use, store or manufacture a chemical substance in a quantity that poses a threat to the environment or public health.

~~"Business" means any individual, partnership, corporation, or association in the State engaged in a business operation which has five or more full-time employees, or 20 or more part-time employees, and which is properly assigned or included within one of the following standard industrial classifications (SIC), as designated in the standard industrial classification manual prepared by the Federal Office of Management and Budget (The Act, Section 2(b)).~~

- ~~2295 COATED FABRICS, NOT RUBBERIZED;~~
- ~~2491 WOOD-PRESERVING;~~
- ~~2641 PAPER COATING AND GLAZING;~~
- ~~2812 ALKALIES AND CHLORINE;~~
- ~~2813 INDUSTRIAL GASES;~~
- ~~2819 INDUSTRIAL INORGANIC CHEMICALS, NOT ELSEWHERE CLASSIFIED;~~
- ~~2821 PLASTIC MATERIALS, SYNTHETIC RESINS, AND NON-VULCANIZABLE ELASTOMERS;~~
- ~~2834 PHARMACEUTICAL PREPARATIONS;~~

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

| | |
|------|---|
| 2842 | SPECIALTY CLEANING, POLISHING AND SANITATION PREPARATIONS; |
| 2851 | PAINTS, VARNISHES, LACQUERS, ENAMELS, AND ALLIED PRODUCTS; |
| 2865 | CYCLIC (COAL TAR) CRUDES, AND CYCLIC INTERMEDIARIES, DYES AND ORGANIC PIGMENTS (LAKES AND TONERS); |
| 2869 | INDUSTRIAL ORGANIC CHEMICALS, NOT ELSEWHERE CLASSIFIED; |
| 2873 | NITROGENOUS FERTILIZER; |
| 2874 | PHOSPHATIC FERTILIZERS; |
| 2879 | PESTICIDES AND AGRICULTURAL CHEMICALS, NOT ELSEWHERE CLASSIFIED; |
| 2891 | ADHESIVES AND SEALANTS; |
| 2892 | EXPLOSIVES; |
| 2911 | PETROLEUM REFINING; |
| 2952 | ASPHALT FELTS AND COATINGS; |
| 2999 | PRODUCTS OF PETROLEUM AND COAL, NOT ELSEWHERE CLASSIFIED; |
| 3079 | MISC. PLASTICS PRODUCTS; |
| 3111 | LEATHER TANNING AND FINISHING; |
| 3333 | PRIMARY SMELTING AND REFINING OF ZINC; |
| 3471 | ELECTROPLATING, PLATING, POLISHING, ANODIZING AND COLORING; |
| 4953 | REFUSE SYSTEMS; |
| 5085 | INDUSTRIAL SUPPLIES; |
| 5161 | CHEMICALS AND ALLIED PRODUCTS; |
| 5171 | PETROLEUM BULK STATIONS AND TERMINALS (The Act, Section 2(b)). |

~~For purposes of these regulations the SIC Code which a business uses for determining its coverage under the Illinois Unemployment Insurance Act (Ill. Rev. Stat. 1985, ch. 48, pars. 570, et. seq.) shall be the SIC Code for determining the applicability of the Act.~~

~~"Authorized official" means the emergency services and disaster agency coordinator or the chairperson of the local emergency planning committee mayor of a city or municipality, chairman of the county board, president of a village, or their designee as identified in local disaster preparedness plans prepared pursuant~~

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

~~to Part 205 of 29 Illinois Administrative Code.~~

~~"Chemical substance" means any "toxic substance" as defined by the Toxic Substances Disclosure to Employees Act, (Ill. Rev. Stat. 1985 ch. 48, pars. 1401, et. seq.) and any "hazardous substance" as defined by the Environmental Protection Act (Ill. Rev. Stat. 1985 ch. 111½ pars. 1004, et. seq) (The Act, Section 2(b)).~~

~~"IEMA/ESDA" means the Illinois Emergency Management Services and Disaster Agency.~~

~~"Emergency services and disaster agency" or "ESDA" means the agency by this name, by the name emergency management agency, or by any other name that is established by ordinance within a political subdivision to coordinate the emergency management program within that political subdivision and with private organizations, other political subdivisions, and/or State and federal governments.~~

~~"Evacuation" means the withdrawal of any member of the general public from an area threatened by exposure to chemical substances, as recommended by an authorized official of a local geographic jurisdiction.~~

~~"Facility" means the buildings, and all contiguous real property contiguous thereto, and the equipment at a single location used for the conduct of business [430 ILCS 45/3] (The Act, Section 2(b)).~~

~~"Local emergency preparedness planning agency (LEPPA)" means any local agency or department designated either verbally or in writing by the principal executive officer, to discharge the responsibility of developing local emergency preparedness plans and procedures.~~

~~"Local geographical jurisdiction" means city, village or incorporated town or alternatively the county for unincorporated areas.~~

~~"Local emergency planning committee" or "LEPC" means the committee that is appointed for an emergency planning district under section 301 of the federal Emergency Planning and Community Right-to-Know Act of 1986.~~

~~"Local emergency response agency (LERA)" means any local agency or~~

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

~~department designated either verbally or in writing by the principal executive officer, to discharge the responsibility of responding to an accident involving chemical substances.~~

~~"Principal executive officer" means the chairman of the county board in the county, mayor of a city or incorporated town, president of a village, or in their absence or disability, the interim successor as established pursuant to the "Emergency Interim Executive Succession Act (Ill. Rev. Stat. 1985, ch. 102, pars. 102, et. seq.) as amended.~~

~~"Public" means any individual not employed by, or authorized to be within the area under the control of, the person responsible for the chemical substance; the exclusion of employees from this definition applies only during actual hours of employment.~~

~~"Release" means any sudden spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping, or disposing beyond the boundaries of a facility (The Act, Section 2(b)).~~

~~"Significant release" means any release which is so designated by the Agency or the ESDA based upon an inspection at the site of an emergency incident, or any release which results in any evacuation, hospitalization, or fatalities of the public (The Act, Section 2(b)).~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 610.30 Categories and Jurisdictionsjurisdictions of Local Response Agencieslocal response agencies

- a) Numerous local ~~geographical jurisdictional~~ agencies and departments may be directly involved in hazardous material planning and response activities. ~~ESDAs, LEPCs, Volunteer and paid fire departments, emergency medical services, law enforcement police, county sheriff's departments, emergency services, and public health departments~~ are local organizations most commonly involved in planning for, and responding to, chemical emergencies. ~~At the county or municipal governmental level, it is not uncommon for one organization to be designated as the lead local emergency preparedness planning agency, while another may be designated as the lead local emergency response agency. Authority for assigning job duties and responsibilities as they relate to emergency preparedness planning~~

ILLINOIS EMERGENCY MANAGEMENT AGENCY

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~~and response ultimately lies with the principal executive officer of a local geographical jurisdiction.~~

- b) Representative of businesses subject to the provisions of the Act should contact the ESDA and LEPC~~principal executive officer of the county~~local geographical jurisdiction in which the facility is located to coordinate emergency planning and response for their facility. Businesses shall submit a copy of their chemical safety contingency plan to the ESDA and LEPC and other appropriate local agencies and departments that are included in the plan or needed for response. Contact information for ESDAs and LEPCs can be found on IEMA's website at <https://www2.illinois.gov/iema/pages/default.aspx>.

AGENCY NOTE: Businesses located in the City of Chicago should contact the City of Chicago LEPC. to obtain the names of the appropriate local emergency preparedness planning and emergency response agencies. Businesses may formally request in writing that the principal executive officer provide such information. If the principal executive officer has not provided businesses with the names of the appropriate local emergency response and planning agencies within 15 working days following receipt of the written request for such information, then businesses shall prior to July 1, 1986, submit a copy of the Chemical Safety Contingency Plan to the principal executive officer of the local geographical jurisdiction in which the facility is located and shall notify the local fire department, hospital, police department and emergency services agency of such action. Also prior to July 15, 1986 and, in addition to the notice required under Section (d) of the Act, businesses shall notify the Illinois Emergency Services and Disaster Agency of the principal executive officer's failure to respond to this request for information. The Illinois Emergency Services and Disaster Agency will contact those Principal Executive Officers who have failed to respond, and will attempt to determine if the local geographic jurisdiction is experiencing problems in the chemical emergency preparedness planning or emergency response area. If so the Agency will offer technical assistance to the local geographic jurisdiction.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 610.40 Communications and Coordination~~coordination~~

- a) Representatives of business subject to the provisions of the Act shall annually review their chemical safety contingency plan and, upon completion of this

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

review process, request in writing a meeting with representatives of the ESDA and LEPC~~appropriate local emergency preparedness planning and emergency response agencies in local geographical jurisdictions~~ where the facility is located.

- b) These meetings are designed to bring representatives from the public and private sectors together to discuss current emergency response functions; and update all affected entities on the chemical emergency preparedness activities undertaken by both the public and private sectors over the course of the previous year. At a minimum, the meeting shall address:
- 1) ~~Changes~~Any changes in the facility's chemical safety contingency plan and its emergency system operations or response capabilities;
 - 2) ~~Rationale~~the rationale for listing and non-listing of chemical substances contained in the plan, including a review of why any substance is expected to be innocuous under the circumstances of its release;
 - 3) ~~changes in the facility emergency system operations or response capabilities~~;
 - 34) ~~Any~~a review of any incidents of the previous year ~~that~~which resulted in a significant release as defined by the Act;
 - 45) ~~Any~~a discussion of any on-going and future, joint chemical education or emergency response programs; and
 - 56) ~~The~~a discussion of the local jurisdictions'~~geographical jurisdiction's~~ chemical safety emergency planning and response activities, ~~and how the industry and the community may assist each other in their chemical safety preparedness efforts.~~
- c) If no authorized ~~official~~official of the ESDA and LEPC~~respond~~appropriate emergency preparedness planning or emergency response agency responds within 20 working days following receipt of the ~~business'~~business's written request for the annual meeting, the annual meeting need not occur and the business has fulfilled its responsibility under this ~~Section~~section.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 610.50 Required Notifications~~Notice to the Emergency Services and Disaster Agency~~

- a) ~~Representatives of business subject to the provisions of the Act shall provide written notice to the Illinois Emergency Services and Disaster Agency no later than July 15, 1986. This written notice shall certify that business has prepared a chemical safety contingency plan, and also provided copies of this plan to the appropriate local geographical jurisdictions emergency preparedness planning and emergency response agencies. Forms for this purpose shall be provided by the Illinois Emergency Services and Disaster Agency.~~
- a**b**) ~~Whenever a business creates a chemical safety contingency plan or its~~ Whenever a business creates a chemical safety contingency plan or its ~~chemical safety contingency plan undergoes revision, the each business shall provide the plan or the that amended portion of the plan to the ESDA and LEPC and any other appropriate local agencies and departments that are included in the plan or needed for response. the appropriate local emergency preparedness planning and emergency response agencies, and shall within 20 working days of this revision notify the Illinois Emergency Services and Disaster Agency of this change. Forms for this purpose shall be provided by the Illinois Emergency Services and Disaster Agency.~~
- e) ~~After submission to the appropriate local geographical jurisdictions emergency preparedness planning and emergency response agencies, any member of the public wishing to review a business's chemical safety contingency plan may review such a plan and it shall be made available for inspection during the normal operating hours (Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 951 et. seq.) of such agencies. The appropriate local emergency preparedness planning or emergency response agencies may at their option provide a copy of the chemical safety contingency plan to the local public library.~~
- b**d**) Notifications to IEMA~~Notices~~ required by the Act or questions regarding requirements should be directed to ema.tier2@illinois.gov or to IEMA, ATTN: Hazardous Materials Section, 2200 S. Dirksen Parkway, Springfield IL 62703.~~under this section and requests for necessary forms shall be forwarded to:~~

~~The Hazardous Materials Section~~

~~Illinois Emergency Services and Disaster Agency~~

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENTS

~~110 East Adams~~

~~Springfield, IL 62706~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Housing Appeals Board
- 2) Code Citation: 47 Ill. Adm. Code 395
- 3)

| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
|-------------------------|--------------------------|
| 395.103 | Amendment |
| 395.106 | Amendment |
| 395.202 | Amendment |
| 395.203 | Amendment |
| 395.204 | Amendment |
| 395.306 | Amendment |
| 395.307 | Amendment |
| 395.308 | Amendment |
| 395.313 | Amendment |
| 395.314 | Amendment |
| 395.316 | Amendment |
| 395.319 | Amendment |
- 4) Statutory Authority: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 60 of the Affordable Housing Planning and Appeal Act [310 ILCS 67/60].
- 5) A Complete Description of the Subjects and Issues Involved: These amendments make the rules consistent with recent amendments to the Affordable Housing Planning and Appeal Act. Certain defined terms have been amended. Certain aspects of the eligibility and term lengths for State Housing Appeals Board have been amended. Certain aspects of the hearing and appeal procedures have been amended.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: The proposed amendments do not create, expand or modify a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Karri E. Kartes
Associate Corporate & Compliance Counsel
Legal Department
Illinois Housing Development Authority
111 E. Wacker Dr., Suite 1000
Chicago IL 60601
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Affordable housing developers and local governments throughout Illinois.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: No new professional skills.
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2017

The full text of the Proposed Amendments begins on the next page:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 395
STATE HOUSING APPEALS BOARD

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| 395.102 | Purpose and Objectives |
| 395.103 | Definitions |
| 395.104 | Compliance with Federal and State Law |
| 395.105 | Forms and Procedures for the Program |
| 395.106 | Fees and Charges |
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| 395.203 | Meetings of the Members |
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| 395.302 | Computation of Time |
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| 395.304 | Consolidation, Severance and Joinder |
| 395.305 | Initial Pleadings by Affordable Housing Developers |
| 395.306 | Notice of Appeal |
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ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

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| 395.308 | Reply to the Initial Pleading by Approving Authority |
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SUBPART D: APPEALS OF LOCAL GOVERNMENT EXEMPT STATUS

Section

395.401 Appeals of IHDA's Determination of a Local Government's Exempt Status

AUTHORITY: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805] and Section 60 of the Affordable Housing Planning and Appeal Act [310 ILCS 67].

SOURCE: Adopted at 37 Ill. Reg. 4901, effective March 29, 2013; amended at 38 Ill. Reg. 3596, effective January 21, 2014; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 395.103 Definitions

The following terms used in this Part shall have the following definitions:

"Act": The Affordable Housing Planning and Appeal Act [310 ILCS 67].

"Affordable Housing": Housing that has a value or cost or rental amount that is within the means of a household that may occupy Moderate-Income Housing or Low-Income Housing.

In the case of owner-occupied Dwelling Units, Affordable Housing means housing in which mortgage, amortization, taxes, insurance and condominium or association fees, if any, constitute no more than 30% of

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the gross annual household income for a household of the size that may occupy the Dwelling Unit.

In the case of Dwelling Units for rent, Affordable Housing means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the Dwelling Unit.

"Affordable Housing Developer": A nonprofit entity, limited equity cooperative or public agency, or private individual, firm, corporation, or other entity seeking to build an Affordable Housing Development.

"Affordable Housing Development": Any housing that is subsidized by the federal or State government, or any housing in which at least 20% of the Dwelling Units are subject to covenants ~~and~~ restrictions that require the Dwelling Units to be sold or rented at prices that preserve them as Affordable Housing for a period of at least 15 years, in the case of owner-occupied housing, and at least 30 years, in the case of rental housing.

"Affordable Housing Plan": The Affordable Housing Plan to be approved by all Non-Exempt Local Governments as set forth in Section 25 of the Act.

"Approving Authority": The governing body of the Local Government.

"Area Median Household Income": The median household income adjusted for family size for applicable income limit areas as determined annually by HUD under Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Board": The State Housing Appeals Board.

"Chairman": The chairman of the Board.

"Contumacious Conduct": A willful disobedience of the Board's order.

"Days": Calendar days. Due dates under this Part falling on a Saturday, Sunday or a legal State or federal holiday shall be deemed to fall on the next calendar day that is not a Saturday, Sunday or a legal State or federal holiday.

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"Development": Any building, construction, renovation or excavation, or any material change in any structure or land, or change in the use of a structure or land, that results in a net increase in the number of Dwelling Units in a structure or on a parcel of land by more than one Dwelling Unit.

"Dwelling Unit": Real property located within the State upon which there is located a structure or structures that are a single family home, a condominium or a multi-unit residential structure that is the principal residence of the Household that resides in the unit.

"Exempt Local Government": Any Local Government in which at least 10% of its total year-round housing units are Affordable Housing, as determined by the Authority pursuant to Section 20 of the Act, or any municipality whose population is less than 1,000.

"Household": The person or persons occupying a Dwelling Unit.

"HUD": The United States Department of Housing and Urban Development.

"IHDA": The Illinois Housing Development Authority.

"IHDA Act": The Illinois Housing Development Act [20 ILCS 3805].

"IHDA Chairman": The chairman of IHDA.

"Initial Pleading": The Initial Pleading submitted by an Affordable Housing Developer as set forth in Section 395.~~305306~~.

"Local Government": A county or a municipality.

"Low-Income Housing": Housing that is affordable, according to HUD, for either home ownership or rental and that is occupied, reserved or marketed for occupancy by Households with a gross household income that does not exceed 50% of the Area Median Household Income.

"Member": A member of the State Housing Appeals Board.

"Moderate-Income Housing": Housing that is affordable, according to HUD, for either home ownership or rental, and that is occupied, reserved or marketed for

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occupancy by Households with a gross household income that is greater than 50%, but does not exceed 80%, of the Area Median Income.

"Non-Appealable Local Government Requirements": All essential requirements that protect the public health and safety, including any local building, electrical, fire or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. Zoning, density and bulk restrictions may count as Non-Appealable Local Government Requirements if the Board finds that they qualify under the Act's definition of Non-Appealable Local Government Requirements.

"Non-Exempt Local Governments": All Local Governments that are not Exempt Local Governments.

"Notice of Appeal": The Notice of Appeal sent to an Approving Authority by the Board as set forth in Section 395.~~306~~³⁰⁷.

"Offices of IHDA": ~~111 E. Wacker~~^{401 North Michigan Avenue}, Suite ~~1000~~⁷⁰⁰, Chicago, Illinois ~~60601~~⁶⁰⁶¹¹.

"Public Building": *Any building or portion thereof owned or leased by a Public Body.* [5 ILCS 120/2.01]

"Public Body": All legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts, and all other municipal corporations, boards, bureaus, committees or commissions of the State, and any subsidiary bodies of any of the foregoing, including, but not limited to, committees and subcommittees supported in whole or in part by tax revenue, or that expend tax revenue, except the General Assembly and committees or commissions of the General Assembly.

"Reply": The Reply sent by the Approving Authority in response to an Initial Pleading.

"State": The State of Illinois.

"Vice-Chairman": The Vice-Chairman of the State Housing Appeals Board.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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Section 395.106 Fees and Charges

The Authority shall not charge the Board any fees or other charges for services it provides to the Board. The Members shall be reimbursed by the State for all reasonable expenses actually and necessarily incurred in the performance of their official duties. In the making of reimbursements to the Members, the State may use funds from the Illinois Affordable Housing Trust Fund, pursuant to the Illinois Affordable Housing Act [310 ILCS 65], or such other ~~funds~~ fund as the State may determine.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART B: ORGANIZATION

Section 395.202 Organization of the Board

The duties of the Board are governed by the Act and this Part. The Board shall consist of 7 Members appointed by the Governor.

- a) Chairman: A retired Illinois circuit judge or retired Illinois appellate judge who is a Member ~~and who is designated from time to time by the Governor is the chairperson of the Board.~~
- b) Vice Chairman: The Board shall annually elect from its Members a Vice-Chairman. In the absence of the Chairman or in the event of his or her inability or refusal to act, the Vice-Chairman shall perform the duties of the Chairman. In the event of the absence of the Chairman or the Vice-Chairman from a meeting of the Board, or in the event of their inability or refusal to act, the Chairman shall designate some Member to act in his or her place and stead, and that designated Member shall have the powers of and be subject to all the restrictions upon the Chairman.
- c) Other Members: Other Members, who are ~~appointed~~ designated from time to time by the Governor, are as follows:
 - 1) a zoning board of appeals member;
 - 2) a planning board/commission member;

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- 3) a mayor or municipal council or board member;
 - 4) a county board member;
 - 5) an affordable housing developer;
 - 6) an affordable housing advocate.
- d) Ex Officio Member: The IHDA Chairman, ex officio, shall serve as a non-voting Member.
 - e) No more than 4 of the appointed Members may be from the same political party. Appointments under subsections (c)(1), (c)(2), and (c)(3) shall be from Non-Exempt Local Governments.
 - f) Initial terms of 4 Members designated by the Governor shall be for 2 years. Initial terms of 3 Members designated by the Governor shall be for one year. Thereafter, Members shall be appointed for 2 years. After a Member's term expires, the Member shall continue to serve until a successor is appointed. There shall be no limit to the number of terms an appointee may serve.
 - g) A Member shall receive no compensation for his or her services; however, Members shall be reimbursed by the State for all reasonable travel and administrative expenses actually and necessarily incurred in the performance of their official duties.
 - h) The Board shall hear all petitions for review filed under the Act and shall conduct hearings in accordance with this Part.
 - i) The principal office of the Board shall be the Offices of IHDA with office hours that are coterminous with the office hours of IHDA. IHDA shall provide space, clerical assistance and other assistance that the Board may require.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 395.203 Meetings of the Members

- a) Compliance with Open Meetings Act: All meetings of the Board shall be in compliance with the Illinois Open Meetings Act [5 ILCS 120].

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- b) Regular Meetings: The regular meetings of the Board shall be held at the Offices of IHDA, at least ~~annually~~quarterly, with the specific ~~date~~dates for the ~~annual meeting~~quarterly meetings to be set no later than January 1 of each calendar year. The Board may hold a regular meeting *simultaneously* at the ~~Offices~~Office of IHDA *and one or more other locations in a Public Building through an interactive video conference if public notice and public access are provided for all meeting locations. Members physically present in those locations shall count towards determining a quorum.* [5 ILCS 120/2.01] If there are no appeals, other applicable context, or other business to come before the Board, the Chairman may cancel a regular meeting. Notice of cancellation shall be provided to Members in the same manner as notice of special, emergency and reschedule meetings, as set forth in subsection (f), and shall also be posted at the Offices of IHDA and on IHDA's website.
- c) Rescheduled Meetings: A regular meeting of the Board may be rescheduled as determined by the Chairman, in which event notice of the rescheduled meeting shall be given in accordance with the Open Meetings Act.~~by publication in a newspaper of general circulation in the area in which the Board functions at least 10 days prior to the rescheduled meeting. Notice of the change shall also be posted at the Offices of IHDA and on IHDA's website.~~ [5 ILCS 120/2.02 and 2.03]
- d) Special Meetings: Special meetings of the Board may be called at any time by the Chairman or upon request of any 2 Members of the Board. *Public notice of the special meeting, except a meeting held in the event of a bona fide emergency, or of any rescheduled regular meeting described in subsection (c),* or of a reconvened meeting shall be given at least 48 hours before the meeting. Notice of the special meeting, and the agenda for the meeting, shall be posted at the Offices of IHDA and on IHDA's website. [5 ILCS 120/2.02]
- e) Emergency Meetings: Emergency meetings of the Board may be called at any time by the Chairman or upon request of any 2 Members of the Board. Public notice of the emergency meeting shall be given as soon as practicable, but in any event, prior to the holding of the meeting.
- f) Notice of Meetings: The Board, through IHDA, shall publish a schedule of its regular meetings by January 1 of each calendar year listing the dates, times and places of the meetings. The schedule shall be posted at the Offices of IHDA and

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on IHDA's website. No notice of regular meetings, as provided for in subsection (b) need be given to any Member. Notice in writing of all special, emergency and rescheduled meetings shall be delivered personally or via electronic mail, or shall be mailed to each Member at his or her business or home address. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope addressed to the Member, with postage prepaid. Any Member may waive notice of a special, emergency or rescheduled meeting and attendance at the meeting shall constitute a waiver of notice of the meeting except when a Member attends for the express purpose of objecting to the meeting because the meeting was not lawfully called or convened. ~~Neither the business to be transacted, nor the purpose of any regular, rescheduled, special or emergency meeting, need be specified in any notice or waiver of notice of the meeting.~~

- g) Quorum: A majority of the appointed Members of the Board shall constitute a quorum. A quorum must be physically present at any meeting of the Board. A Member attending a meeting via video conference as provided for in subsection (b) will be considered physically present for the purposes of determining a quorum and voting. The affirmative vote of a majority of the appointed Members shall be necessary for any action taken by or in the name of the Board at any meeting. If less than a quorum is present at a meeting, a majority of the Members present may adjourn the meeting from time to time. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.
- h) Attendance By Means Other Than Physical Presence:
- 1) If a quorum is physically present at a meeting of the Board, a Member may attend the meeting via audio or video conference only if the Member cannot attend because of:
 - A) personal illness or disability;
 - B) employment purposes or other business of the Board; or
 - C) *a family or other emergency* [5 ILCS 120/7].
 - 2) The Member must notify the Chairman of his or her intention to attend the meeting via audio or video conference at least 48 hours before the meeting unless impracticable. A Member cannot attend more than one regularly

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scheduled meeting of the Board for that calendar year via audio or video conference unless the Member presents a document from his or her physician attesting to the Member's inability to physically attend a meeting or meetings. If one or more Members attend via audio or video conference, the Board, through IHDA, shall issue a written notice at the meeting stating the names of the Members present by audio or video conference, the electronic means that the Members will use to attend the meeting, and the location of the speakerphone or monitor receiving and transmitting the communications from the Members present by audio or video conference. The Member must then identify himself or herself by name and be recognized by the Chairman or other presiding officer before communicating. The minutes of the meeting shall reflect which Members were physically present and which Members were present via video or audio conference.

- i) Records: A full and complete record shall be kept of all Board proceedings. IHDA shall be the official custodian of the records. Oral proceedings shall be recorded electronically, stenographically or by other means that will adequately ensure the preservation of the testimony or oral proceedings and shall be transcribed on the request of any party to a case. Transcription costs, if any, shall be borne by the party requesting the transcript. Other records shall consist of the following:
- 1) *all pleadings, including all notices and responses to those pleadings, and all motions and ruling;*
 - 2) a transcript of the hearing, if any;
 - 3) *all evidence received;*
 - 4) *a statement of matters officially ~~noticed~~noted;*
 - 5) *any offers of proof, objections and rulings on that proof;*
 - 6) *any proposed findings and exceptions;*
 - 7) any decision, opinion or report of the Board;

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- 8) *all staff memoranda or data submitted to the Board by IHDA in connection with the consideration of a case before the Board; and*
- 9) *Any prohibited ex parte communications.* [5 ILCS 100/10-35(a)]

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 395.204 Conduct of the Board

- a) Authority: The Board shall have all the powers necessary and appropriate to conduct a full, fair and impartial hearing, including, but not limited to, the following:
 - 1) to administer oaths and affirmations;
 - 2) to rule upon offers of proof and receive relevant evidence;
 - 3) to issue subpoenas;
 - 4) to provide for discovery and to determine its scope;
 - 5) to regulate the course of the hearing and the conduct of the parties and their counsel;
 - 6) to consider and rule upon procedural requests;
 - 7) to require or hold conferences for the settlement or simplification of the issues;
 - 8) to examine witnesses, direct witnesses to testify, limit the number of times a witness may testify, limit repetitive or cumulative testimony, and set reasonable limits on the amount of time a witness may testify;
 - 9) to ensure that the hearing is conducted in a full, fair and impartial manner, that order is maintained, and that unnecessary delay is avoided in the disposition of the hearing;
 - 10) to dismiss appeals in accordance with the Act; and

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- 11) to affirm, reverse or modify the conditions of or add conditions to a decision of an Approving Authority.
- b) Disqualification of Members of the Board: No person who is a Member of the Board shall engage in practice before the Board in any respect. No person who has been a Member of the Board shall, for one year after termination of membership on the Board, engage in practice before the Board in any respect. No person who has been a Member of the Board shall engage in any practice before the Board in connection with any case or proceeding that was pending during that person's membership with the Board. No Member of the Board shall participate in any hearing or other proceeding before the Board regarding an Affordable Housing Development in which that Member has a direct or indirect financial interest.
- c) Ex Parte Communications:
 - 1) Except in the disposition of matters that the Board is authorized to entertain or dispose of on an ex parte basis ~~under the Illinois Administrative Procedure Act [5 ILCS 100]~~, the Board and IHDA staff shall not, with respect to any pending or contested appeal, communicate directly or indirectly in connection with any issue of fact before the Board, with any party or the representative of any party, except upon notice and an opportunity for all parties to participate.
 - 2) An ex parte communication received by any member of the Board or any employee or member of IHDA pertaining to a pending appeal shall be made a part of the record of the pending appeal, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.
 - 3) Ex Parte communications prohibited by the Illinois Administrative Procedure Act [5 ILCS 100] shall not form the basis of any decision of the Board.
 - 4) Communications regarding matters of practice and procedure, such as the status of appeals, filing requirements, form letters, scheduling of hearings, format of pleadings, number of copies required, manner of

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~~service~~administrative review, and the like are not considered ex parte communications under this Part.

- d) Contumacious Conduct: Contumacious Conduct at any hearing before the Board shall be grounds for exclusion from the hearing. If a witness or a party fails to appear or refuses to answer a question after being directed to do so or refuses to obey an order to provide or permit discovery, the Board may issue orders with regard to the failure to appear or the refusal as are just and appropriate, including, but not limited to, excluding the testimony of witnesses, entering an order of default, entering an order that certain facts are deemed admitted for purposes of the proceeding, or entering an order denying the application or complaint of a party.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART C: APPEALS TO THE BOARD BY
AFFORDABLE HOUSING DEVELOPERS

Section 395.306 Notice of Appeal

- a) Within 5 Days after the Board has received the Initial Pleading filed by the Affordable Housing Developer, the Board shall send a Notice of Appeal and a courtesy copy of the Initial Pleading to the Approving Authority identified in the Initial Pleading.
- b) Upon receipt, the Approving Authority shall post the Notice of Appeal in the Approving Authority's office and on the Approving Authority's website. The Approving Authority shall continue to post the Notice of Appeal for a period of not less than 10 Days. If the Approving Authority fails or neglects to post the Notice of Appeal in the Approving Authority's office or on the Approving Authority's website, the appeal shall proceed and shall not be impaired.
- c) A Notice of Appeal shall include the following:
- 1) the time, place and nature of the appeal;
 - 2) the legal authority and jurisdiction under which the hearing is to be held;
~~and~~

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- 3) a reference to the particular Section of the Act involved;
- 4) the consequences of a failure to respond and the official file or other reference number; and
- 5) the name and mailing address of the Board and all parties.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 395.307 Dismissal before Hearing

- a) Within 10 Days after receipt of the Notice of Appeal from the Board, the Approving Authority may file a motion to dismiss the appeal under the following circumstances:
 - 1) pursuant to Section 20(c) of the Act, the Local Government was determined to be exempt pursuant to Section 20 of the Act in the year in which the appeal was filed. If applicable, the Local Government shall address any allegations by the Affordable Housing Developer, pursuant to Section 395.401, that the determination the Local Government is exempt from the Act is incorrect; or
 - 2) pursuant to Section 30(d) of the Act, the Local Government has adopted an Affordable Housing Plan, has submitted that plan to IHDA within the required time frame, and has submitted documentation to IHDA that evidences the Local Government has met its goal pursuant to Section 25(b)(iv) of the Act, subject to the written approval of IHDA in its discretion; or
 - 3) pursuant to Section 30(e) of the Act, the denial is based upon Non-Appealable Local Government Requirements ~~that are critical to the protection or preservation of the environment.~~
- b) A motion to dismiss before a hearing shall include the following:
 - 1) a statement explaining why the appeal should be dismissed; and
 - 2) if appropriate, any documents or material supporting the claim.

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- c) On the same day that the Approving Authority files a motion to dismiss with the Board, the Approving Authority shall serve a complete copy of the motion to dismiss on the Affordable Housing Developer and any other parties at the address or addresses specified in the Initial Pleading.
- d) If the Approving Authority files a motion to dismiss prior to the hearing, the Affordable Housing Developer may file a rebuttal within 10 Days after the filing of the motion to dismiss, rebutting any of the claims made in the Approving Authority's motion to dismiss.
- e) The Board shall decide the Affordable Housing Developer's rebuttal on the merits. If the Board determines that the Affordable Housing Developer has successfully rebutted the claims made in the Approving Authority's motion to dismiss, the Board shall deny the motion to dismiss and the issues raised in the motion to dismiss and the response shall be questions of fact to be resolved as part of the appeals process; otherwise, the Board may dismiss the appeal and, if dismissed, the Approving Authority shall not be required to file a [Reply](#).

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 395.308 Reply to the Initial Pleading by Approving Authority

- a) If an appeal is not dismissed before the hearing pursuant to Section 395.307, within 15 Days after the Board's decision to deny the motion to dismiss, the Approving Authority shall file a Reply to the Initial Pleading with the Board and shall provide a copy of the Reply to the Initial Pleading to the Affordable Housing Developer and all other parties. If no motion to dismiss is filed, the Approving Authority shall file a Reply to the Initial Pleading with the Board and shall provide a copy of the Reply to the Initial Pleading to the Affordable Housing Developer and all other parties within 15 Days after the Notice of Appeal.
- b) The Reply to the Initial Pleading shall include the following:
 - 1) a statement explaining why the application that is the subject of the appeal was denied or conditions were applied, which may include an appeal of IHDA's determination of the non-exempt status of the Local Government under the Act as set forth in Section 395.401. If the Approving Authority denied an application or imposed conditions because it concluded that the Affordable Housing Developer did not comply with all Non-Appealable

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Local Government Requirements, the Reply to the Initial Pleading must specify the requirements that justify the denial or the imposition of changes; ~~and~~

- 2) a record of the vote on the Affordable Housing Developer's application that is the subject of the appeal; and
 - 3) any findings of fact related to the application.
- c) The failure to file a Reply to the Initial Pleading shall be deemed a general denial of matters asserted in the Initial Pleading and a waiver of all affirmative defenses.
 - d) A party may participate in the hearing without forfeiting any jurisdictional objection, if the objection is made within 15 Days after receipt of the Notice of Appeal. Any party may file a response to the objection within 15 Days after service.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 395.313 Evidence

- a) A party shall be entitled to present its case by testimonial or documentary evidence, to submit rebuttal evidence, *and to conduct cross-examination as may be required for a full and fair disclosure of facts.* [5 ILCS 100/10-40(b)] Testimonial evidence shall be taken only on oath or affirmation. Any cross-examination shall be limited to the scope of the direct examination.
- b) ~~The~~ With respect to submissions of evidence, hearings before the Board shall be informal and the technical rules of evidence and privilege that apply ~~applied~~ in civil cases in Illinois circuit ~~the courts of the State~~ shall be followed. ~~However,~~ evidence not admissible under ~~apply; however,~~ those rules may be admitted (unless precluded by statute) if it is of ~~used as a type commonly relied upon by reasonably prudent men in the conduct of their affairs.~~ [5 ILCS 100/10-40(a)] ~~guide as far as practicable. The lack of application of the rules of evidence shall not impair the competency of evidence.~~
- c) The Chairman shall have the discretion to determine whether evidence being offered is reliable and whether the evidence should be admitted. The Chairman

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may exclude evidence that is irrelevant, immaterial or unduly repetitious. (See 5 ILCS 100/10-40(a).)

- d) *Subject to the requirements of this Subpart, when a hearing will be expedited and the interest of the parties will not be prejudiced, the Chairman may allow evidence to be received in written form. [5 ILCS 100/10-40(a)]*
- e) If a party objects to the admission or rejection of any evidence or to the limitation to the scope of any examination or cross-examination, or to the failure to limit that scope, that party shall state briefly the grounds for the objection. Rulings on all objections shall appear in the record.
- f) Official Notice: Official *notice may be taken* of any material fact not appearing in evidence in the record if *the circuit courts of this State could take judicial notice* of the fact. In addition, *notice may be taken of generally recognized technical or scientific facts within the Board's specialized knowledge. Parties shall be notified either before or during the hearing of the material noticed, including any memoranda or data prepared by IHDA staff, and the parties shall be afforded an opportunity to contest the facts noticed. The experience, technical competence and specialized knowledge of the Board and IHDA may be utilized in the evaluation of the evidence. [5 ILCS 100/10-40(c)]*
- g) Types of Evidence: The Board shall hear evidence only as to matters actually in dispute. Factual areas in which evidence may be heard if it is relevant to issues in dispute include, but are not limited to, the following:
 - 1) health, safety and the environment
 - A) structural soundness of the proposed buildings;
 - B) adequacy of sewage arrangements;
 - C) adequacy of water drainage arrangements;
 - D) adequacy of fire protection;
 - E) adequacy of the Affordable Housing Developer's proposed arrangements for dealing with traffic circulation within the site, and feasibility of arrangements that could be made by the Local

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Government for dealing with traffic generated by the proposed housing on adjacent streets;

F) proximity of the proposed site to airports, industrial activities or other activities that may affect the health and safety of the occupants of the proposed housing;

2) site and building design

A) height, bulk and placement of the proposed housing;

B) physical characteristics of the proposed housing;

C) height, bulk and placement of surrounding structures and improvements;

D) physical characteristics of the surrounding land;

E) adequacy of parking arrangements;

F) adequacy of open areas, including outdoor recreational areas, proposed within the building site;

3) open space

A) availability of existing open spaces in the Local Government;

B) current and projected utilization of existing open spaces and consequent need, if any, for additional open spaces, by the Local Government's population, including occupants of the proposed housing;

C) relationship of the proposed site to any Local Government open space or outdoor recreation plan officially adopted by the applicable corporate authorities of the Local Government, and to any official actions to preserve open spaces taken with respect to the proposed site by the Local Government prior to the date of the Affordable Housing Developer's initial submission; the inclusion of the proposed site in the open space or outdoor recreation plan

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shall create a presumption that the site is needed to preserve open spaces unless the Affordable Housing Developer produces evidence to the contrary;

- D) relationship of the proposed site to any regional open space plan prepared by the applicable regional planning agency;
 - E) current use of the proposed site and of land adjacent to the proposed site;
 - F) inventory of site suitable for use as open spaces, and available for acquisition or other legal restriction as open spaces, in the Local Government, provided that the Board shall admit no evidence of any open space plan adopted only by the local conservation commission or other local body but not officially adopted by the planning board/commission;
- 4) municipal planning
- A) a Local Government's master plan, comprehensive plan or community development plan; and
 - B) the results of the Local Government's efforts to implement those plans;
- 5) The uniform application, or lack thereof, of any impact fees, building permit fees and any other local fees.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 395.314 Affordable Housing Developer's Burden of Proof

- a) Denial: Pursuant to Section 30(c) of the Act, in the case of a denial of an Affordable Housing Developer's application, the Affordable Housing Developer bears the burden of demonstrating that the [Approving Authority unfairly denied approval of the Affordable Housing Development. To meet this burden, the developer must prove that it](#) is an Affordable Housing Developer and has proposed an Affordable Housing Development. In addition, the Affordable Housing Developer shall demonstrate that:

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- 1) the proposed Affordable Housing Development complies with all Non-Appealable Local Government Requirements and all relevant federal and State statutes and regulations. The Affordable Housing Developer must prove these elements with respect to only those aspects of the project that are in dispute; ~~or~~
 - 2) Non-Appealable Local Government Requirements or federal or State statutes or regulations have been applied differently to proposals that do not include Affordable Housing; ~~or~~
 - 3) the Approving Authority has a pattern of denying applications to develop Affordable Housing; ~~or~~
 - 4) the Approving Authority changed the zoning of an area regarding a specific Affordable Housing Development that, but for the change in zoning, is otherwise able to proceed, or has a pattern of changing zoning of an area in regards to Affordable Housing Developments that, but for the change in zoning, are otherwise able to proceed; ~~or~~
 - 5) the Approving Authority unreasonably or intentionally delayed its decision regarding a specific Affordable Housing Development that, but for the lack of timely decision by the Approving Authority, is otherwise able to proceed, or has a pattern of unreasonably or intentionally delaying its decisions on applications for Affordable Housing Developments that, but for the lack of timely decisions of the Approving Authority, are otherwise able to proceed; ~~or~~
 - 6) IHDA's determination that the Local Government is exempt from the Act is incorrect based on the counting protocols set forth in Section 20 of the Act and any written guidance published by IHDA; or
 - 7) ~~the any other unreasonable~~ denial of the application for the Affordable Housing Development was unfair because it otherwise inhibits the construction of Affordable Housing.
- b) Approval with Conditions: Pursuant to Section 30(c) of the Act, in the case of an approval with conditions, the Affordable Housing Developer bears the burden of demonstrating that the Approving Authority imposed unreasonable conditions on

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the proposed Affordable Housing Development. To meet this burden, the Affordable Housing Developer must prove the developer is an Affordable Housing Developer that has proposed an Affordable Housing Development. The Affordable Housing Developer ~~shall~~~~must~~ also ~~demonstrate~~~~prove~~

- 1) the Approving Authority has generally not imposed unreasonable conditions on similar developments; or
 - 2) the conditions are not necessary to further the asserted Approving Authority interest; or
 - 3) less costly conditions can be imposed on the proposed Affordable Housing Development that sufficiently address the asserted Approving Authority's interest.
- c) The failure of a Local Government to submit an Affordable Housing Plan as set forth in Section 25 of the Act shall not prevent an Affordable Housing Developer from filing an appeal with the Board. The Board may take into consideration the failure to submit an Affordable Housing Plan in connection with any appeal before the Board.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 395.316 Decision

- a) The Board shall render a written decision within 120 Days after the Initial Pleading is filed. Notwithstanding the foregoing, the Board may extend the time by which it will render a decision when circumstances outside the Board's control make it infeasible for the Board to render a decision within 120 ~~Days~~~~days~~. The written decision shall state the Board's findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence presented and on matters officially noticed.
- b) The Board shall dismiss the appeal during or after the hearing if, based on all relevant evidence presented, it concludes that:
 - 1) the Local Government was an Exempt Local Government in the year in which the appeal was filed; ~~or~~

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- 2) the Local Government has adopted an Affordable Housing Plan, has submitted that plan to IHDA within the required time-frame under the Act, and has submitted documentation to IHDA that evidences the Local Government has met its goal to provide Affordable Housing as required by the Act, ~~subject to the written approval of IHDA in its discretion~~; or
 - 3) the Approving Authority denied the Affordable Housing based upon Non-Appealable Local Government Requirements.
- c) In the case of a denial, if the Board finds that the Affordable Housing Developer has met its burden of proof pursuant to Section 395.314(a), the Board shall vacate the decision of the Approving Authority and shall direct the Approving Authority to issue the appropriate permits to the Affordable Housing Developer.
- d) In the case of conditions imposed by the Approving Authority, if the Board finds that the Affordable Housing Developer has met its burden of proof pursuant to Section 395.314(b):
- 1) the Board shall direct the Approving Authority to remove any such condition; or
 - 2) if the Board finds that the conditions are unreasonable but can be modified to reasonably protect the health, safety, environmental design, open space, and other local concerns, the Board shall direct the Approving Authority to so modify the conditions.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 395.319 Appeals of the Board's Decision

The final decision and order of the Board, after all motions to reconsider have been exhausted, may be appealed by the party affected by the decision by bringing an action for review in the appellate court for the district in which the Local Government subject to the appeal is located. The appellate court shall apply the "clearly erroneous" standard when reviewing these appeals. An appeal of a final ruling of the Board shall be filed within 35 days after the Board's decision and in all respects shall be in accordance with Section 3-113 of the Administrative Review Law [735 ILCS 5/3-113].)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
| 140.452 | Amendment |
| 140.453 | Amendment |
| 140.455 | Amendment |
| 140.460 | Amendment |
| 140.TABLE N | Amendment |
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: May 28, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 14043, July 20, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: Text changes include: adding text to comply with PA 100-0908, clarifying when services can be provided by video and phone; clarifying the team lead requirements for ACT services; correcting capitalization errors and typos; clarifying how a mental disability is established for the purpose of receiving services; clarifying the contents of a Crisis Safety Plan; and clarifying how long mental health case management services may be provided prior to the completion of IATP
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

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| <u>Section Numbers:</u> | <u>Proposed Actions:</u> | <u>Illinois Register Citations:</u> |
|-------------------------|--------------------------|-------------------------------------|
| 140.412 | Amendment | 43 Ill. Reg. 5143; May 10, 2019 |
| 140.413 | Amendment | 43 Ill. Reg. 5143; May 10, 2019 |
| 140.440 | Amendment | 43 Ill. Reg. 5143; May 10, 2019 |

- 15) Summary and Purpose of Rulemaking: This rulemaking makes changes to the medical assistance program's community-based mental health services, including: implementing the Integrated Assessment and Treatment Planning (IATP) tool; revising Crisis Intervention services; implementing Mobile Crisis Response and Crisis Stabilization services; clarifying that Behavioral Health Clinics may not receive reimbursement for Assertive Community Treatment and Psychosocial Rehabilitation services; establishing Assertive Community Treatment program requirements for Community Mental Health Centers.
- 16) Information and questions regarding these adopted rules shall be directed to:

Christopher Gange
Acting General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

HFS.Rules@Illinois.gov

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination, Suspension, Exclusion or Revocation on Persons

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- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Sanctioned Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
- 140.55 Electronic Data Interchange Service
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)
- 140.74 Resolution of Claims Related to Inaccurate or Updated Enrollment Information

SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund

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| 140.86 | Supportive Living Facility Funds |
| 140.94 | Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund (Repealed) |
| 140.95 | Hospital Services Trust Fund (Repealed) |
| 140.96 | General Requirements (Recodified) |
| 140.97 | Special Requirements (Recodified) |
| 140.98 | Covered Hospital Services (Recodified) |
| 140.99 | Hospital Services Not Covered (Recodified) |
| 140.100 | Limitation On Hospital Services (Recodified) |
| 140.101 | Transplants (Recodified) |
| 140.102 | Heart Transplants (Recodified) |
| 140.103 | Liver Transplants (Recodified) |
| 140.104 | Bone Marrow Transplants (Recodified) |
| 140.110 | Disproportionate Share Hospital Adjustments (Recodified) |
| 140.116 | Payment for Inpatient Services for GA (Recodified) |
| 140.117 | Hospital Outpatient and Clinic Services (Recodified) |
| 140.200 | Payment for Hospital Services During Fiscal Year 1982 (Recodified) |
| 140.201 | Payment for Hospital Services After June 30, 1982 (Repealed) |
| 140.202 | Payment for Hospital Services During Fiscal Year 1983 (Recodified) |
| 140.203 | Limits on Length of Stay by Diagnosis (Recodified) |
| 140.300 | Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified) |
| 140.350 | Copayments (Recodified) |
| 140.360 | Payment Methodology (Recodified) |
| 140.361 | Non-Participating Hospitals (Recodified) |
| 140.362 | Pre July 1, 1989 Services (Recodified) |
| 140.363 | Post June 30, 1989 Services (Recodified) |
| 140.364 | Prepayment Review (Recodified) |
| 140.365 | Base Year Costs (Recodified) |
| 140.366 | Restructuring Adjustment (Recodified) |
| 140.367 | Inflation Adjustment (Recodified) |
| 140.368 | Volume Adjustment (Repealed) |
| 140.369 | Groupings (Recodified) |
| 140.370 | Rate Calculation (Recodified) |
| 140.371 | Payment (Recodified) |
| 140.372 | Review Procedure (Recodified) |
| 140.373 | Utilization (Repealed) |
| 140.374 | Alternatives (Recodified) |

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- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 Non-Institutional Rate Reductions
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
- 140.423 Licensed Clinical Psychologist Services
- 140.424 Licensed Clinical Social Worker Services
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories

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| 140.438 | Diagnostic Imaging Services |
| 140.439 | Critical Access Care Pharmacy Payment |
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| 140.454 | Types of Mental Health Services |
| 140.455 | Payment for Mental Health Services |
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| 140.459 | Payment for Therapy Services |
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| 140.463 | Clinic Service Payment |
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| 140.466 | Rural Health Clinics (Repealed) |
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| 140.478 | Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices |
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- 140.527 Quality Incentive Survey (Repealed)
- 140.528 Payment of Quality Incentive (Repealed)
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- 140.530 Basis of Payment for Long Term Care Services
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- 140.576 Renovations (Repealed)
- 140.577 Capital Costs for Rented Facilities (Renumbered)
- 140.578 Property Taxes
- 140.579 Specialized Living Centers
- 140.580 Mandated Capital Improvements (Repealed)
- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
- 140.582 Cost Adjustments
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- 140.590 Audit and Record Requirements
- 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and

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| 140.880 | Provider Qualifications (Repealed) |
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| 140.901 | Functional Areas of Needs (Recodified) |
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| 140.903 | Definitions (Recodified) |
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- 140.909 Statewide Rates (Recodified)
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SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section

- 140.920 General Description
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- 140.924 Maternal and Child Health Provider Participation Requirements
- 140.926 Client Eligibility (Repealed)
- 140.928 Client Enrollment and Program Components (Repealed)
- 140.930 Reimbursement
- 140.932 Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

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- 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
- 140.942 Definition of Terms (Recodified)
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- 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
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- 140.952 Closing an ICARE Area (Recodified)
- 140.954 Administrative Review (Recodified)
- 140.956 Payments to Contracting Hospitals (Recodified)
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- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
- 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
- 140.964 Contract Monitoring (Recodified)
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- 140.972 Hospital Services Procurement Advisory Board (Recodified)
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SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

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SUBPART J: ALTERNATE PAYEE PARTICIPATION

- Section
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140.1002 Participation Requirements for Alternate Payees
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SUBPART K: MANDATORY MCO ENROLLMENT

- Section
140.1010 Mandatory Enrollment in MCOs

SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

- Section
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140.1310 Recovery of Money

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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| 140.TABLE O | Criteria for Participation as a Behavioral Health Clinic |

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984;

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emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987;

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amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3,

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1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30,

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1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332,

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effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002;

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amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill.

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Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; preemptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended

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at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; emergency expired February 12, 2017; amended at 41 Ill. Reg. 999, effective January 19, 2017; amended at 41 Ill. Reg. 3296, effective March 8, 2017; amended at 41 Ill. Reg. 7526, effective June 15, 2017; amended at 41 Ill. Reg. 10950, effective August 9, 2017; amended at 42 Ill. Reg. 4829, effective March 1, 2018; amended at 42 Ill. Reg. 12986, effective June 25, 2018; emergency amendment at 42 Ill. Reg. 13688, effective July 2, 2018, for a maximum of 150 days; emergency amendment to emergency rule at 42 Ill. Reg. 16265, effective August 13, 2018, for the remainder of the 150 days; amended at 42 Ill. Reg. 14383, effective July 23, 2018; amended at 42 Ill. Reg. 20059, effective October 26, 2018; amended at 42 Ill. Reg. 22352, effective November 28, 2018; amended at 43 Ill. Reg. 1014, effective December 31, 2018; amended at 43 Ill. Reg. 2227, effective February 4, 2019; amended at 43 Ill. Reg. 4094, effective March 25, 2019; amended at 43 Ill. Reg. 5706, effective May 2, 2019; amended at 43 Ill. Reg. 6736, effective May 28, 2019.

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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.452 Community-based Mental Health Providers Qualified for Payment

- a) Payment will be made for community-based mental health services provided by providers enrolled in the Illinois Medical Assistance Program as:
 - 1) A Community Mental Health Center. Community Mental Health Center shall mean an entity certified by the Department, or its agent, pursuant to 59 Ill. Adm. Code 132; or
 - 2) A Behavioral Health Clinic, pursuant to Section 140.499; or
 - 3) An Independent Practitioner defined as:
 - A) A Licensed Clinical Psychologist, pursuant to 89 Ill. Adm. Code 140.423(a);
 - B) A Licensed Clinical Social Worker, pursuant to 89 Ill. Code 140.424(a); or
 - C) A psychiatrist, defined as a physician licensed under the Medical Practice Act of 1987 who has successfully completed a training program in psychiatry approved by the Accreditation Council for Graduate Medical Education (ACGME) or other training program identified as equivalent by the Department.
- b) To receive payment for community-based mental health services, providers must be enrolled for participation in the Medical Assistance Program, pursuant to Sections 140.11 and 140.12.
- c) Community Mental Health Centers may receive reimbursement for all services described in Section 140.454.
- d) Behavioral Health Clinics may receive reimbursement for all services described in Section 140.454, except Behavioral Health Clinics may not receive reimbursement for the services described in the following subsections of Section 140.453: Assertive Community Treatment (Section 140.453(d)(4)(A)) and Psychosocial Rehabilitation (Section 140.453(d)(2)(F)).

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- e) Independent Practitioners may receive reimbursement only for the following services: [Integrated](#) Assessment and Treatment Planning (Section 140.453(d)(1)); Therapy/Counseling (Section 140.453(d)(2)(G)); and MRO Crisis Services (Section 140.453(d)(3)).

(Source: Amended at 43 Ill. Reg. 6736, effective May 28, 2019)

Section 140.453 Community-based Mental Health Service Definitions and Professional Qualifications

- a) Inter-Departmental Collaboration and Administration. The Department of Human Services-Division of Mental Health (DHS-DMH) and the Department of Children and Family Services (DCFS), pursuant to an executed interagency agreement, shall ensure the administration and coordination of mental health services.
- b) Community-based Mental Health Professional Qualifications. All individuals qualified under this Section to provide services shall only provide the services listed in this Section within their scope of practice, as defined or by federal or state law, regulation or policy.
- 1) All professional definitions provided in this subsection (b) are only applicable to services detailed in this Section.
 - 2) Independent Practitioner (IP). An IP, as defined by Section 140.452(a)(3), may receive direct reimbursement for services pursuant to Section 140.452(e). All other credentialed staff detailed in this Section must be employees of a Community Mental Health Center or Behavioral Health Clinic that may qualify for reimbursement for the services provided.
 - 3) Licensed Practitioner of the Healing Arts (LPHA). An LPHA is defined as:
 - A) A physician who holds a valid license in the state of practice and is legally authorized under state law or rule to practice medicine in all its branches, so long as that practice is not in conflict with the Medical Practice Act of 1987;

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- B) An advanced practice nurse with psychiatric specialty that holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an advanced practice nurse, so long as that practice is not in conflict with the Illinois Nurse Practice Act or the Medical Practice Act of 1987;
 - C) A clinical psychologist who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a clinical psychologist, so long as that practice is not in conflict with the Clinical Psychologist Licensing Act;
 - D) A licensed clinical professional counselor possessing a master's degree who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a licensed clinical professional counselor, so long as that practice is not in conflict with the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107];
 - E) A marriage and family therapist who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a marriage and family therapist, so long as that practice is not in conflict with the Marriage and Family Therapist Licensing Act [225 ILCS 55];
 - F) A clinical social worker possessing a master's or doctoral degree who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a social worker, so long as that practice is not in conflict with the Clinical Social Work and Social Work Practice Act.
- 4) Qualified Mental Health Professional (QMHP). A QMHP is defined as one of the following:
- A) Any individual identified as an LPHA in subsection (b)(3);
 - B) A registered nurse who holds a valid license in the state of practice, is legally authorized under state law or rule to practice as a registered nurse, so long as that practice is not in conflict with the Illinois Nurse Practice Act, and has training in mental health

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services or one year of clinical experience, under supervision, in treating problems related to mental illness, or specialized training in the treatment of children and adolescents.

- C) An occupational therapist who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an occupational therapist, so long as that practice is not in conflict with the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of clinical experience in a mental health setting. In the event the state of practice does not provide a legal authority for licensure, the individual must meet the requirements of 42 CFR 484.4 for an occupational therapist.
- D) An individual possessing a master's or doctoral degree in counseling and guidance, rehabilitation counseling, social work, psychology, pastoral counseling, family therapy, or a related field and has:
- i) Successfully completed 1,000 hours of practicum and/or internship under clinical and educational supervision; or
 - ii) One year of documented clinical experience under the supervision of a QMHP.
- 5) Mental Health Professional (MHP)
- A) An MHP is defined as one of the following:
- i) Any individual identified as a QMHP in subsection (b)(4); or
 - ii) An individual meeting the following qualifications, delivering services under the supervision of a QMHP:
 - An individual possessing a bachelor's degree in counseling and guidance, rehabilitation counseling, social work, education, vocational counseling, psychology, pastoral counseling, family therapy, or related human service field;

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- An individual possessing a bachelor's degree in any field, other than those identified in subsection (b)(4)(D), with two years of documented clinical experience in a mental health setting under the supervision of a QMHP;
- A practical nurse who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a practical nurse, so long as that practice is not in conflict with the Illinois Nurse Practice Act;
- An individual possessing a certificate of psychiatric rehabilitation from a DHS-approved program, plus a high school diploma or GED, plus two years' documented experience in providing mental health services;
- A recovery support specialist with a current certification from the Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc.;
- A family partnership professional with current certification from the Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc.;
- An occupational therapy assistant with at least one year of experience in a mental health setting that holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an occupational therapist assistant, so long as that practice is not in conflict with the Illinois Occupational Therapy Practice Act. In the event the state of practice does not provide a legal authority for licensure, the individual must meet the

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requirements of 42 CFR 484.4 for an occupational therapist; or

- An individual with a high school diploma or GED and a minimum of five years documented clinical experience in mental health or human services.
- An individual who has completed a behavioral health technician or other psychiatric training certification through the Medical Education and Training Campus in Fort Sam Houston, Texas, with one year documented clinical experience in a mental health setting under supervision of a QMHP.

B) Any individual designated as an MHP prior to July 1, 2011 shall retain that designation throughout the continual course of his/her employment. In the event that the individual leaves the current employer, the designation is no longer valid.

6) Rehabilitative Services Associate (RSA). An RSA is defined as one of the following:

A) Any individual identified as a QMHP in subsection (b)(4); or

B) An individual meeting the following qualifications, delivering services under the supervision of a QMHP:

i) Any individual identified as an MHP in subsection (b)(5);
or

ii) Any individual who is 21 years of age and demonstrates all of the following:

- Skill in the delivery of rehabilitative services to adults or children;
- The ability to work within a provider agency's structure and accept supervision; and

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- The ability to work constructively with individuals receiving services, other providers of service, and the community.
- c) Service Reimbursements. The services detailed in subsections (d) and (e) may be eligible for reimbursement pursuant to the Department's published fee schedule when the services are:
- 1) Recommended by an LPHA or IP, operating within his/her scope of practice. Unless otherwise noted in this Section, the term services "recommended by an LPHA or IP" shall mean:
 - A) The services of Integrated Assessment and Treatment Planning performed by an LPHA or IP to determine an individual's potential clinical need for services; or
 - B) Those services identified by the LPHA or IP following the completion of an Integrated Assessment and Treatment Plan;
 - 2) Provided to an individual for the maximum reduction of mental disability and restoration to the best possible functional level in accordance with 42 CFR 440.130. A mental disability, for the purposes of receiving services under this Section is established as follows:
 - A) The identification of a diagnosis, ~~and~~ a functional impairment, ~~in accordance with subsection (d)(1)(A)(i) (Assessment)~~ and treatment recommendations by the LPHA or IP following the completion of the Integrated Assessment and Treatment Plan; or
 - B) For children under age 21 who do not meet the criteria listed in subsection (c)(2)(A), the identification of more than one documented criterion for a mental disorder listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), a documented impact on the child's functioning in more than one life domain, and treatment recommendations by the LPHA or IP following the completion of the Integrated Assessment and Treatment Plan;

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- 3) Provided consistent with any service limitations, utilization controls, and prior authorizations established by the Department. All prior authorizations for the services detailed in this Section shall be completed by the Department or its approved agent; and
 - 4) Provided for the direct benefit of the child, which may include support provided to immediate caregivers of the eligible child.
- d) Medicaid Rehabilitation Option (MRO). The following services are established as qualified mental health services under section 1905(a)(13)(C) of the Social Security Act (42 USC 1396d(19)).
- 1) Integrated Assessment and Treatment Planning (IATP). IATP is the formal process of information gathering and review that utilizes a standardized assessment and service planning tool in order to: identify a client's integrated healthcare needs and strengths across all domains; recommend services needed to ameliorate a client's condition and improve well-being; and develop, review, and update an individualized treatment plan.
 - A) The IATP shall:
 - i) Be completed once every 180 days;
 - ii) Only be reimbursed upon utilization of a Department approved assessment and service planning instrument as published on the Department's website;
 - iii) Be reviewed, approved and signed by an LPHA;
 - iv) Be provided to the client, or the client's parent or guardian, upon completion or revision.
 - B) The IATP service is also inclusive of the following functions:
 - i) Clinical assessment activities, performed by, or under the supervision of, an LPHA using a nationally standardized assessment instrument resulting in a written report or documented outcome that includes the identification of a

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clinical issue or tentative diagnosis to assist in the completion of IATP;

- ii) Diagnostic assessment activities, only when provided consistent with the Clinical Psychologist Licensing Act [225 ILCS 15] and using a nationally standardized psychological assessment instrument, resulting in a written report that includes the identification of issues, tentative diagnosis, and recommendations for treatment or services; and
- iii) The completion of the Level of Care Utilization System (LOCUS) screen, or its successor instrument.

C) IATP may be provided:

- i) By Community Mental Health Centers, Behavioral Health Clinics, or Independent Practitioners;
- ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
- iii) On an individual basis;
- iv) By an MHP, QMHP, LPHA; and
- v) By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.

- A) ~~Assessment. Assessment means a formal process of gathering information regarding an individual's mental and physical status and presenting problems through direct contact with the individual and collaterals, resulting in the identification of the individual's mental health service needs. The service of Assessment includes establishing a diagnosis, treatment recommendations, and level of care determinations for service delivery and shall result in an initial or updated Assessment Report.~~

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- i) ~~Assessment services may provide or determine a definitive or provisional diagnosis pursuant to DSM-5 or the International Classification of Diseases, 10th Revision—Clinical Modification (ICD-10). In the event that a rule-out diagnosis is utilized, the Assessment Report must contain documentation as to what additional diagnostic assessment activities will occur in order to provide a definitive diagnosis. A definitive diagnosis shall be determined within 90 days after the completion of the Assessment Report.~~
- ii) ~~The Assessment Report shall be reviewed, approved and signed by the LPHA or IP.~~
- iii) ~~At a minimum, the Assessment Report is updated at least every 12 months.~~
- iv) ~~The Assessment may also include:~~
 - ~~Clinical assessment activities, performed by, or under the supervision of, an LPHA or IP using a nationally standardized assessment instrument resulting in a written report or documented outcome that includes the identification of a clinical issue or tentative diagnosis to assist in the completion of the initial or updated Assessment Report;~~
 - ~~Psychological testing activities, provided in accordance with the Clinical Psychologist Licensing Act and using a nationally standardized psychological assessment instrument, resulting in a written report that includes the identification of issues, tentative diagnosis and recommendations for treatment or services; and~~
 - ~~The completion of the Level of Care Utilization System (LOCUS) activities.~~
- v) ~~Assessment services may be provided:~~

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- ~~By a Community Mental Health Center, Behavioral Health Clinic, or Independent Practitioner;~~
 - ~~At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;~~
 - ~~On an individual basis;~~
 - ~~By an MHP, QMHP, LPHA; and~~
 - ~~By video, phone or face to face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.~~
- B) ~~Treatment Plan Development. A process, based upon the Assessment Report and any additional evaluations, that results in a written Treatment Plan developed with the participation of the individual and the individual's parent or guardian, if applicable. The Treatment Plan is client focused; it defines the specific services to be provided, the individual's goals for those services, and the staff responsible for delivering the services; and it may include updating and modifications.~~
- i) ~~The individual's written Treatment Plan will include a diagnosis, pursuant to subsection (d)(1)(A)(i).~~
 - ii) ~~The individual's Treatment Plan shall be reviewed, approved, and signed by the LPHA or IP.~~
 - iii) ~~At a minimum, the individual's Treatment Plan shall be updated at least every six months.~~
 - iv) ~~The individual and, if applicable, the individual's parent or guardian, will sign the written Treatment Plan to document their participation in development with the plan.~~

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- v) ~~The individual and the individual's parent or guardian, if applicable, will be offered a complete copy of their Treatment Plan upon completion or revision.~~
 - vi) ~~Treatment Plan services may be provided:~~
 - ~~By a Community Mental Health Center, Behavioral Health Clinic, or Independent Practitioner;~~
 - ~~At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;~~
 - ~~On an individual basis;~~
 - ~~By an MHP, QMHP, LPHA; and~~
 - ~~By video, phone or face to face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.~~
- 2) General MRO Services
- A) Community Support Services. Community Support Services shall consist of therapeutic interventions that facilitate illness self-management, identification and use of natural supports, and skill building.
 - i) Community Support Services includes: engaging the individual to have input into his/her service delivery and recovery process; development of relapse prevention strategies and plans; assistance in development of functional, interpersonal and community coping skills (including adaptation to home, school, family and work environments); and skill-building related to symptom self-monitoring. Community Support Services may include an evidence-informed approach to skills training.
 - ii) Community Support Services may only be provided:

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- By a Community Mental Health Center or Behavioral Health Clinic;
 - At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - In an individual or group modality;
 - By an RSA, MHP, QMHP, LPHA; and
 - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- B) Intensive Outpatient (IO) Services. Intensive Outpatient Services are scheduled group therapeutic sessions made available for at least four hours per day, five days per week, for individuals at risk of, or with a history of, psychiatric hospitalization.
- i) IO Services may only be provided:
- By a Community Mental Health Center or Behavioral Health Clinic;
 - Through programs approved pursuant to Table N;
 - At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - By a QMHP;
 - In a group modality; and
 - On a face-to-face basis.

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- ii) IO services may be subject to prior authorization, pursuant to Section 140.40.
- C) Medication Administration. Medication Administration consists of preparing the individual and the medication for administration and observing the individual for possible adverse reactions. Medication Administration services may only be provided:
- i) By a Community Mental Health Center or Behavioral Health Clinic;
 - ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - iii) On an individual basis;
 - iv) By face-to-face contact; and
 - v) By staff that hold a valid license in the state of practice and are legally authorized under state law or rule to administer medication, so long as that practice is not in conflict with the Illinois Nurse Practice Act or the Medical Practice Act of 1987 (e.g., a physician, a psychiatrist, advanced practice nurse, registered nurse or a practical nurse).
- D) Medication Monitoring. Medication Monitoring includes observation, evaluation and discussion of target symptoms responses, adverse effects, laboratory results, tardive dyskinesia screens, and new target symptoms or medications. Medication Monitoring services may only be provided:
- i) By a Community Mental Health Center or Behavioral Health Clinic;
 - ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;

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- iii) On an individual basis;
 - iv) By an RSA, MHP, QMHP or LPHA, as designated in writing to provide the service by staff that hold a valid license in the state of practice and are legally authorized under state law to prescribe medication pursuant to the Illinois Nurse Practice Act or the Medical Practice Act of 1987; and
 - v) By video or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403. Phone consultation is allowed only when a client is experiencing adverse symptoms and phone consultation with another professional is necessary.
- E) Medication Training. Medication Training includes training individuals on self-administration and safeguarding of medication and communication with other professionals, family or caregivers on medication issues. Medication Training services may only be provided:
- i) By a Community Mental Health Center or Behavioral Health Clinic;
 - ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - iii) In an individual or group modality;
 - iv) By video or face-to-face contact; and
 - v) By an RSA, MHP, QMHP or LPHA, as designated in writing to provide the service by staff that hold a valid license in the state of practice and are legally authorized under state law to prescribe medication pursuant to the Illinois Nurse Practice Act or the Medical Practice Act of 1987.

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- F) Psychosocial Rehabilitation (PSR). PSR shall be rehabilitative therapy for individuals designed to increase abilities and resources necessary for community living, socialization, work and recovery. Core activities include cognitive-behavioral interventions, problem solving, interventions to reduce or ameliorate symptoms of a co-occurring disorder and other rehabilitative interventions. PSR is provided in an organized program through individual and group interventions. The focus of treatment interventions includes capacity building to facilitate independent living and adaptation, problem solving and coping skills development.
- i) PSR services may only be provided:
- On-site at a Community Mental Health Center;
 - Through a program that is approved pursuant to Table N;
 - In an individual or group modality. The staffing ratio for groups shall not exceed one full-time equivalent staff to 15 individuals;
 - By an RSA, MHP, QMHP and LPHA; and
 - By face-to-face contact.
- ii) PSR may be subject to prior authorization, pursuant to Section 140.40.
- G) Therapy/Counseling. Therapy/Counseling is a treatment modality that uses interventions based on psychotherapy theory and techniques to promote emotional, cognitive, behavioral or psychological changes. Therapy/Counseling Services may be provided:
- i) By a Community Mental Health Center, Behavioral Health Clinic, or Independent Practitioner;

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- ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - iii) In an individual, group or family modality;
 - iv) By an MHP, QMHP and LPHA; and
 - v) By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- 3) MRO Mental Health Crisis Services
- A) Crisis Services. Crisis Services are short-term, time-limited interventions that may be provided prior to, or without, an established IATP.
- i) Crisis Intervention. Crisis Intervention is short-term intervention for clients who, in the course of treatment or intervention, appear to need immediate intensive intervention to achieve crisis symptom reduction and stabilization. Crisis Intervention shall be provided:
 - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Section 140.6(n) and 140.403; and
 - By a QMHP, LPHA or MHP with immediate access to a QMHP.
 - ii) Mobile Crisis Response (MCR). MCR is a mobile, responding to the location of the client, intervention seeking to achieve crisis symptom reduction, stabilization, and restoration of the client to a previous level of functioning, establishing support for the client's caregivers when applicable, mitigating the crisis event. MCR activities are tailored to the needs of the client, require face-to-face crisis screening, and may include: short-term

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intervention; crisis safety planning; brief counseling; consultation with other qualified providers to assist with the client's specific crisis; referral and linkage to community services; and, in the event that the client cannot be stabilized in the community, facilitation of a safe transition to a higher level of care. MCR shall be provided:

- By a provider certified by the Department to provide MRO Crisis Services pursuant to Table N;
- On a face-to-face basis;
- By a crisis team trained in crisis de-escalation techniques, led by a QMHP, LPHA or MHP with immediate access to a QMHP and at least one other individual meeting any of the qualifications detailed in subsection (b); and
- Utilizing a Department approved crisis screening instrument available on the Department's website.

iii) Crisis Stabilization. Crisis Stabilization services are available immediately following an MCR event and are designed to prevent additional behavioral health crises from occurring by providing strengths-based, individualized, direct supports on a one-on-one basis to clients in the home or community setting. Crisis Stabilization services shall be provided:

- By a provider certified by the Department to provide MRO Crisis Services pursuant to Table N;
- Upon demonstrated need for stabilizing supports as documented in the client's Crisis Safety Plan following the review, approval, and signature by an LPHA. The Crisis Safety Plan contains an identification of diagnosis, need or functional impairment; a treatment recommendation of Crisis Stabilization service accompanied by a

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recommendation for service amount, frequency and duration; and documentation of the entity responsible for service delivery;

- On a face-to-face basis; and
- By an MHP, with immediate access to a QMHP, trained in crisis intervention techniques.

MRO Crisis Services

- A) Crisis Intervention. Crisis Intervention includes: crisis assessment, brief intervention, consultation, referral and linkage to other services.
- i) Crisis intervention services include pre-hospitalization screening of individuals age 0 through 20, to assess their ability to be stabilized in the community as an alternative to inpatient psychiatric hospitalization, pursuant to Section 5 of the Children's Mental Health Act of 2003 [405 ILCS 49].
- ii) Crisis intervention services may be provided:
- Prior to Assessment and Treatment Planning;
 - By a Community Mental Health Center, Behavioral Health Clinic, or Independent Practitioner;
 - At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - On an individual basis;
 - By a QMHP, LPHA or MHP with immediate access to a QMHP; and

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- ~~By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.~~

4) Team-based MRO Services

A) Assertive Community Treatment (ACT) Services. ACT Services consist of integrated crisis, treatment and rehabilitative supports provided by an interdisciplinary team to individuals with serious and persistent mental illness or co-occurring mental health and substance use disorders. ACT Services are intended to promote symptom stability, management of co-morbid health conditions, and appropriate use of psychotropic medications, as well as to restore personal care, community living, work and social skills. ACT Services encompass counseling and therapy, medication management and monitoring, skill building, and crisis stabilization services. ACT Services focus on the restoration of functional skills (e.g., psychosocial, adaptive, self-care) to promote and maintain community living.

i) ACT Services shall be:

- Provided only by Community Mental Health Centers;
- ~~Delivered by a team led by a full-time LPHA;~~
- At least one member of the team who is either a Certified Recovery Support Specialist (CRSS) or Certified Family Partnership Professional (CFPP), based upon the age of the clients served by the team. A person with lived experience may be included on a team that does not have a CRSS or CFPP if he/she obtains certification within 18 months after his/her date of hire; and
- Available 24 hours per day, seven days a week, each week of the year.

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- ii) ACT Services may only be provided:
- To eligible individuals age 18 or older;
 - At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - In an individual or group modality; and
 - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- iii) ACT Services may be subject to prior authorization, pursuant to Section 140.40.
- iv) ACT Services shall be delivered by a team led by a full-time:
- LPHA;
 - Licensed social worker (LSW) possessing at least a master's degree in social work, who holds a valid license in the state of practice and is legally authorized under that state's law or rule to practice as an LSW so long as that practice is not in conflict with the Clinical Social Work and Social Work Practice Act [225 ILCS 20] and who has specialized training in mental health services, or with at least two years experience in mental health services;
 - Licensed professional counselor possessing at least a master's degree, who holds a valid license in the state of practice and is legally authorized under that state's law or rule to practice as a licensed professional counselor so long as that practice is not in conflict with the Professional Counselor and Clinical Professional Counselor Licensing Act [225

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ILCS 107] and who has specialized training in mental health services, or with at least two years experience in mental health services;

- Registered nurse (RN) who holds a valid license in the state of practice and is legally authorized under that state's law or rule to practice as a RN, so long as that practice is not in conflict with the Nursing and Advanced Practice Nursing Act [225 ILCS 65], and who has at least one year of clinical experience in a mental health setting or a master's degree in psychiatric nursing; or
- Occupational therapist (OT) who holds a valid license in the state of practice, is legally authorized under that state's law or rule to practice as an OT, so long as that practice is not in conflict with the Illinois Occupational Therapy Practice Act [225 ILCS 75] and who has at least one year of clinical experience in a mental health setting.

B) Community Support Team (CST). CST consists of mental health rehabilitation services and supports to decrease hospitalization and crisis episodes and to increase community functioning in order for the individual to achieve rehabilitative, resiliency and recovery goals. CST facilitates illness self-management, skill building, identification and use of adaptive and compensatory skills, identification and use of natural supports, and use of community resources.

i) CST Services shall be:

- Provided only by programs approved pursuant to Table N;
- Delivered by a team led by a full-time QMHP; and
- Available 24 hours per day, seven days a week, each week of the year.

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- ii) CST Services may only be provided:
 - By a Community Mental Health Center or Behavioral Health Clinic;
 - At all service locations and setting deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - On an individual basis;
 - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
 - iii) CST Services may be subject to prior authorization, pursuant to Section 140.40.
- e) Targeted Case Management (TCM). The following services are established pursuant to section 1905(a)(19) of the Social Security Act (42 USC 1396d(a)(19)).
- 1) Types of TCM Services
 - A) Client-centered Consultation Case Management. Client-centered Consultation Case Management consists of client-specific professional communications among provider staff or between provider staff and staff of other providers who are involved with service provision to the individual. Professional communications include offering or obtaining a professional opinion regarding the individual's current functioning level or improving the individual's functioning level, discussing the individual's progress in treatment, adjusting the individual's current treatment, or addressing the individual's need for additional or alternative mental health services. Client-centered Consultation Case Management services may only be provided:

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- i) To eligible individuals receiving one or more services detailed in Section 140.453(d)(2) (General MRO Services);
 - ii) By a Community Mental Health Center or Behavioral Health Clinic;
 - iii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - iv) On an individual basis;
 - v) By an RSA, MHP, QMHP and LPHA; and
 - vi) By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- B) Mental Health Case Management Services. Mental Health Case Management Services consist of: assessment, planning, coordination and advocacy services for individuals who need multiple services and require assistance in gaining access to and in using behavioral health, physical health, social, vocational, educational, housing, public income entitlements and other community services to assist the individual in the community. Mental Health Case Management Services may also include identifying and investigating available resources, explaining options to the individual, and linking the individual with necessary resources. Mental Health Case Management Services may be provided:
- i) For 30 days prior~~Prior~~ to completion of the Integrated Assessment and Treatment ~~Plan~~Planning;
 - ii) By a Community Mental Health Center or Behavioral Health Clinic;

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- iii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - iv) On an individual basis;
 - v) By an RSA, MHP, QMHP and LPHA; and
 - vi) By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- C) Transition Linkage and Aftercare Case Management Services shall be provided to assist in an effective transition in living arrangements, consistent with the individual's welfare and development. This includes discharge from institutional settings, transition to adult services, and assisting the individual or the individual's family or caretaker with the transition.
- i) Transition, Linkage and Aftercare Limitation. The Department will not fund more than 40 hours of this service per State fiscal year for an eligible individual.
 - ii) Transition, Linkage and Aftercare may only be provided:
 - By a Community Mental Health Center or Behavioral Health Clinic;
 - At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
 - On an individual basis;
 - By an MHP, QMHP and LPHA; and
 - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.

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- iii) Transition Linkage and Aftercare Case Management Services may be subject to prior authorization, pursuant to Section 140.40.
- 2) Limitation on Targeted Case Management Services. The Department shall not fund more than 240 total hours of targeted case management services per State fiscal year per individual (not per provider).

(Source: Amended at 43 Ill. Reg. 6736, effective May 28, 2019)

Section 140.455 Payment for Mental Health Services

- a) The amount approved for payment for mental health services described in Section 140.454 shall be based on the type and amount of service required by and actually delivered, and provided consistent with any service limitations, utilization controls, or prior approval processes established or authorized by the Department.
- b) The payment amount for a service described in Section 140.454(a) through (d) is determined in accordance with the rate methodologies outlined in the Department's published fee schedule, available at <https://www.illinois.gov/hfs/MedicalProviders/MedicaidReimbursement/Pages/CMHP.aspx>.
- c) The payment amount for a service described in Section 140.454(e) shall be at the rate of reimbursement paid to a physician for the same service.
- d) [Payment for services described in Section 140.453\(d\)\(1\) and \(3\) is effective for dates of service on or after August 1, 2018.](#)

(Source: Amended at 43 Ill. Reg. 6736, effective May 28, 2019)

Section 140.460 Clinic Services

- a) The following types of clinics are eligible to receive payment for clinic services:
 - 1) Hospital-based organized clinics;
 - 2) Encounter rate clinics;

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- 3) Federally Qualified Health Centers (FQHC):
 - 4) Rural health clinics; and
 - 5) Maternal and Child Health Clinics.
- b) Behavioral Health Clinics are eligible to receive payment for community-based mental health services as defined in Section 140.454, except Behavioral Health Clinics may not receive reimbursement for the services described in Section 140.453(d)(4)(A) (Assertive Community Treatment) and (d)(2)(F) (Psychosocial Rehabilitation). Behavioral Health Clinics are eligible to receive payment for Community-based Mental Health Services as defined in Section 140.453, as detailed in Section 140.453 and the Department's published fee schedule.
- c) Clinics enrolled for participation in the Medical Assistance Program pursuant to Sections 140.11 and 140.12 to receive reimbursement on an encounter rate basis are prohibited from receiving reimbursement from the Department for the provision of services in Section 140.453 in any form other than their established behavioral health encounter rate.

(Source: Amended at 43 Ill. Reg. 6736, effective May 28, 2019)

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Section 140.TABLE N Program Approval for Specified Behavioral Health Services

- a) Purpose. Services requiring program approval, as required in Section 140.453, shall be approved based upon the criteria outlined in this Section. For the purposes of this Section, Department shall mean the Department of Healthcare and Family Services (HFS) or its agent.
- b) Process
 - 1) Initial Program Approval
 - A) Enrolled providers, and providers seeking enrollment with HFS pursuant to Section 140.452, to provide one or more of the services detailed in Section 140.453 that require program approval, must identify their intention to provide those services with the HFS Provider Participation Unit through the Illinois Medicaid Program Advanced Cloud Technology (IMPACT) portal.
 - B) The Department shall process the provider's enrollment application, or updated materials, pursuant to Subpart B.
 - C) Following the provider's enrollment, or updated enrollment status, the Department will perform program approval of the provider's service program within 90 days.
 - D) The program approval process shall include:
 - i) The annual submission of an attestation detailing the provider's adherence with Section 140.453 and this Table N, for each service for which the provider is seeking program approval.
 - ii) The review of provider program plans, policies, procedures, staffing materials, and other documents required by the Department to determine compliance with Section 140.453 and this Table N, for each service for which the provider is seeking program approval.

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- iii) Program approval of PSR and IO service programs shall require an on-site visit prior to approval.
 - iv) The Department may, at its sole discretion, elect to perform on-site program approval activities for any and all services detailed in this Table N.
- E) The Department will notify the provider of the date and format of its program approval activities in writing. For program approval activities that are subject to on-site review, the Department will notify the provider at least 10 days prior to the scheduled review. The Provider must:
- i) Make the physical plant and site locations available to the Department during clinical review;
 - ii) Make all administrative and clinical staff, required program plans, procedures manuals, and other necessary documentation required to complete the program approval review available to the Department during the review.
- F) The Department shall utilize the program approval criteria detailed in subsection (c) of this Table N for each of the qualifying service program types to be reviewed.
- G) Following the on-site review, the Department shall notify the provider in writing, within 10 business days, of its program approval findings.
- i) Providers determined to be approved shall be enrolled for a period of 12 months for the service program specialty in IMPACT.
 - ii) Providers determined not to be approved:
 - May request programmatic technical assistance from the Department. Throughout the period of receiving technical assistance, and at the sole discretion of the Department, the Department may

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work jointly with the provider to remedy outstanding issues and approve the provider's program.

- Providers determined not to be approved shall be notified of their rights to appeal pursuant to subsection (e), following the receipt of technical assistance from the Department.
- 2) Program Approval/Annual Re-Approval. Following successful completion of initial program approval, providers shall have their service programs reviewed and re-approved annually pursuant to subsection (b)(1)(D) through (G).
- A) Providers determined to be re-approved shall continue to be enrolled for the service program specialty in IMPACT for an additional period of 12 months.
 - B) Providers failing to continue to meet the approval standards shall be issued a Notice of Deficiencies. The Notice of Deficiencies shall inform the provider that it is granted 30 a day period to remedy all identified deficiencies and that technical assistance is available from the Department.
 - i) Providers that remedy identified deficiencies shall be re-approved pursuant to subsection (b)(2)(A).
 - ii) Providers that fail to remedy identified deficiencies shall be provided Final Notice from the Department upon the close of the 30 day period established by the Notice of Deficiencies. Upon the date of issuance of Final Notice, the provider shall be informed of its right to appeal and the availability of technical assistance (see subsection (b)(1)(G)(ii)).
- c) Services
- 1) Community Support Team (CST) Program Approval. The provider must attest annually to CST Services meeting the standards detailed in this

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subsection (c)(1). Additionally, the provider shall demonstrate compliance with the following requirements through policy, procedures, aggregated service detail and/or client record documentation.

- A) Programming. The provider shall ensure CST Services are delivered consistently with the following:
- i) Services. Individuals served in the CST program shall have access to the interventions detailed in Section 140.453(d)(2)(A) and (G).
 - ii) Service Delivery
 - CST Services are to be provided in the individual's natural setting, with teams delivering no fewer than 60 percent of services in the home or community setting.
 - CST Services shall be provided during times and at locations that reasonably accommodate individual's service and treatment needs.
 - iii) Staffing Ratio. CST Services are delivered with staffing ratios that ensure that no more than 18 individuals per each full time equivalent staff are attributed to CST.
- B) Staffing Requirements. The provider shall ensure that the CST team is established consistently with the following:
- i) A team lead (see Section 140.453(d)(4)(B)(i));
 - ii) A team member who is either a Certified Recovery Support Specialist (CRSS) or Certified Family Partnership Professional (CFPP), based upon the age of the individuals served by the team. A person with lived experience may be included on a team that does not have a CRSS or CFPP if he/she obtains certification within 18 month after his/her date of hire; and

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- iii) One other staff member meeting the credentials to provide one or more of the services detailed in in Section 140.453(d)(2)(A) and (G).
- C) Targeted Population Profile. The provider shall ensure the predominant population of individuals receiving CST Services from their CST program will exhibit 3 or more of the following conditions:
- i) At risk of institutionalization;
 - ii) Repeated utilization of crisis services or emergency services for an underlying behavioral health condition;
 - iii) Current, or history within the last three months of (including threats of):
 - Suicidal ideation or gestures; or
 - Harm to self or others;
 - iv) History of failed treatment compliance with elements of the individual's Treatment Plan, Crisis Safety Plan or prescribed medications impacting his/her behavioral health condition;
 - v) Frequent utilization of detoxification services;
 - vi) Behavioral health issues that have not shown improvement through participation in traditional outpatient behavioral health services; or
 - vii) Compounding treatment factors, such as:
 - Medical complexity, including cognitive impairment, additional medical conditions, and/or medication resistance;

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- Issues with social determinants, including chronic homelessness, repeat arrest, and/or incarceration; or
 - Behavioral complexity, including inappropriate public behavior (e.g., public intoxication, indecency, disturbing the peace) or other behavioral problems.
- D) Provider-based Utilization Management. The provider shall establish a CST Service review process that adheres to the following:
- i) The team shall meet weekly to review all individuals participating in the CST program and their progress in services.
 - ii) The CST team lead shall review, with the referring LPHA, the [Integrated](#) Assessment and Treatment Plan and CST Services on a monthly basis to ensure ongoing necessity for service delivery.
 - iii) The LPHA shall:
 - Review each individual's progress in service; and
 - Identify any necessary changes in CST Services, including transition to less intensive services, consistent with the participating individual's [Integrated](#) Assessment and Treatment Plan.
- 2) IO Program Approval. The provider must attest annually to IO Services meeting the standards detailed in this subsection (c)(2). Additionally, the provider shall demonstrate compliance with the following requirements through policy, procedures, aggregated service detail, and/or client record documentation.
- A) Programming. The provider shall ensure IO Services are delivered consistently with the following:

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- i) Active Treatment. The provider shall program IO Services to ensure participants are provided with active treatment, meaning that activities and therapies are not primarily recreational or diversionary. IO Services are provided in response to the participating individual's condition with a reasonable expectation to:
 - Improve or maintain the individual's condition;
 - Improve functional level; and
 - Prevent institutionalization.
 - ii) IO programming provides a series of time-limited, structured, group interventions specific to the needs of the participating individuals, including psychoeducational, skills-development, crisis de-escalation, and other therapeutic interventions. IO programming shall be evidence-informed and delivered through the use of a standardized curriculum model, when available.
- B) Staffing Requirements. The provider shall ensure that IO Service programs are established and include staffing ratios. IO Service staffing ratios for groups shall not exceed one full-time equivalent staff to 8 individuals for adults and one full-time equivalent staff to 4 individuals for youth.
- C) Targeted Population Profile. The provider shall ensure the predominant population of individuals receiving IO Services from their IO program meet the criteria in this subsection (c)(2)(C):
- i) Recognize their condition and seek to manage that condition through lower intensity community services;
 - ii) Are at risk of institutionalization; and
 - iii) Have sufficient cognitive ability to benefit from IO Services.

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- D) Provider-based Utilization Management. The provider shall establish an IO Service review process that adheres to the following:
- i) The IO staff shall review, with the referring LPHA, the [Integrated](#) Assessment and Treatment Plan and IO Services on a weekly basis.
 - ii) The LPHA shall review each individual's diagnosis and identify targeted IO Service topics and goals to be addressed through the provider's IO Service program.
- 3) PSR Program Approval. The Provider must attest annually to PSR Services meeting the standards detailed in this subsection (c)(3). Additionally, the provider shall demonstrate compliance with the following requirements through policy, procedures, aggregated service detail, and/or client record documentation.
- A) Programming. The provider shall ensure PSR Services are delivered consistently with the following:
- i) Active Treatment. The provider shall develop PSR Services to ensure participants are provided with active treatment, meaning activities and therapies are not primarily recreational or diversionary. PSR Services are provided in response to the individual's condition, with a reasonable expectation to:
 - Improve or maintain the individual's condition;
 - Improve functional level; and
 - Prevent institutionalization.
 - ii) Co-occurring Treatment. PSR programs shall have the ability to provide services and interventions to individuals with co-occurring psychiatric and substance use disorder conditions.

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- B) Staffing. The provider shall ensure that PSR Service programs are established consistently with the following:
- i) PSR Program Director. The PSR program shall have a full-time Program Director that meets the requirements of a QMHP (see Section 140.453(b)(2)). The Program Director shall be consistently scheduled onsite, spending at least half of his/her time in the provision of PSR Services.
 - ii) All PSR program staff shall have direct access to the PSR Program Director, or other delegated QMHP, at all times during PSR Service delivery.
- C) Targeted Population Profile. The provider will ensure the predominant population of individuals receiving PSR Services from their PSR program will meet the criteria in this subsection (c)(3)(C):
- i) Require a minimum of 20 hours per week of therapeutic services as evidenced in the plan of care;
 - ii) Benefit from a coordinated program of services and require more than individual sessions of outpatient treatment;
 - iii) Are not eligible to receive similar services under a facility payment rate;
 - iv) Have an adequate support system while not actively engaged in the program;
 - v) Have a mental health diagnosis;
 - vi) Are determined not to be dangerous to self or others; and
 - vii) Have the cognitive and emotional ability to participate in the active treatment process and can tolerate the intensity of PSR Services.

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- D) Provider-based Utilization Management. The provider shall establish a PSR Service review process that adheres to the following:
- i) The PSR staff shall review, with the referring LPHA, the Integrated Assessment and Treatment Plan and PSR Services minimally on the following schedule:
 - Within 14 days after admission to the PSR program; and
 - Once every 30 days, following the initial 14 day period.
 - ii) The LPHA shall:
 - Validate the individual's diagnosis, establish the PSR Service goals with the individual, and direct the type, amount, duration and frequency of intervention to be delivered during the individual's participation at the PSR program.
 - Certify that the individual cannot otherwise be stabilized in the community without participating in PSR Services, placing the individual at risk of institutionalization.
- 4) Medicaid Rehabilitation Option (MRO) Crisis Services Approval. The provider must attest annually to meeting the standards detailed in this subsection (c)(4). Additionally, the provider shall demonstrate compliance with the following requirements through policy, procedures, employee records, and aggregated service detail and/or client record documentation.
- A) Programming. The provider shall ensure crisis services are delivered consistently with the following:
- i) Crisis Screening Instrument Certification.

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- Each provider of MRO Crisis Services shall establish and maintain a staff member who is a certified Trainer of the Department's Crisis Screening Instrument; and
 - All staff providing MRO Crisis Services shall maintain active certification in the usage of the Department's crisis screening instrument.
- ii) Providers that maintain a service area designation in the HFS IMPACT system shall accept all individuals referred by the HFS Crisis and Referral Entry Service (CARES) Line, on a no decline basis, 24 hours a day, 365 days a year and respond to the location of crisis within 90 minutes.
- iii) Training Requirements. All staff providing MRO Crisis Services shall receive annual training on the following topics:
- Crisis Safety Planning, as directed by the Department; and
 - Crisis de-escalation.
- iv) Service Availability. Certified providers of MRO Crisis Services must be available to provide crisis services 24 hours a day, 365 days a year.
- v) Service Delivery
- Providers of MCR shall provide all services in a face-to-face capacity, ensuring that the family is provided with a crisis safety plan and access to follow up services.
 - Providers of Crisis Stabilization services shall ensure staff is trained to identify crisis and understand how to access the crisis response network when consumers are de-escalating.

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- B) Staffing Requirements. An LPHA is required to approve the implementation of crisis stabilization supports following an MCR event via the review and authorization of the individual's crisis safety plan.
- C) Targeted Population Profile. The provider shall ensure the predominant population of individuals receiving MRO Crisis Services from their MRO Crisis Services program will meet the criteria in this subsection (c)(4)(C):
- i) Adult's experiencing a psychiatric crisis in danger of harming themselves, others, or property;
- ii) Children experiencing a behavioral health crisis, inclusive of psychiatric crisis (harm to self, others, property), mental health crisis, and other destabilizing factors that impact the youth in one life domain or more.
- D) Provider-based Utilization Management. The provider shall establish an MRO Crisis Services review process that adheres to the following:
- i) Providers of Crisis Stabilization services shall meet weekly with the LPHA authorizing services via the crisis safety plan to review ongoing necessity for service delivery.
- ii) The LPHA shall:
- Review each individual's progress in service; and
 - Identify any necessary changes in Crisis Stabilization services, including change in intensity of services.
- d) Transferability. Program approval is assignable or transferable consistent with the policies and procedures established by the HFS Provider Participation Unit related to the assignment and transferability of a provider's enrollment status with HFS.

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- e) Service Requirements for CMHCs Providing Assertive Community Treatment (ACT). The Department deems CMHCs certified to provide ACT services consistent with the requirements detailed in this subsection (e), though it reserves the right to review ACT Programs pursuant to the process explained in Table N(b)(2), as required.
- 1) Assertive Community Treatment (ACT) Program Requirements
- A) Services. ACT services are comprised of the interventions detailed in Section 140.453(d)(1), (d)(2), (d)(3) and (f)(1), excluding Section 140.453(e)(2)(B) and (e)(2)(F).
- B) Service Delivery
- i) ACT services are to be available 24 hours a day, each day of the year, and shall minimally adhere to crisis response protocols and timeframes when delivering crisis response services as part of the ACT intervention.
- ii) ACT services are to be provided in the individual's natural setting, with teams delivering no fewer than 75 percent of services in the home or community setting.
- iii) Individuals receiving ACT services shall receive a minimum of 4 face-to-face contacts per month, with an understanding that most individuals participating in ACT will require multiple contacts on a weekly basis.
- iv) Service Ratio. Service ratios of no more than 10 individuals served per each full time equivalent staff attributed to ACT are allowable.
- C) Staffing Requirements
- i) Administrative Support. ACT services shall have dedicated administrative support with teams of fewer than 12 maintaining the ratio of .25 FTE per every 3 ACT team members (e.g., teams of 4 would require .25 FTE, teams of

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6 would require .5 FTE, teams of 9 would require .75 FTE, etc.).

ii) Psychiatric Resource. ACT services are directly supported by a treating psychiatrist and/or Advance Practice Nurse at a ratio of 10 hours per week for each 60 participating individuals. An ACT team must have access to at least 5 hours of dedicated treatment and consultation time from the participating psychiatrist on a weekly basis.

iii) Core Team. ACT Teams shall be comprised of more than three staff members meeting the following requirements:

- A team lead (see Section 140.453(d)(4)(A)(iv));
- A full-time RN who provides services and monitors the clinical status and response to treatment for all individuals participating in ACT;
- A team member who is either a Certified Recovery Support Specialist (CRSS) or Certified Family Partnership Professional (CFPP), based upon the age of the individuals served by the team. A person with lived experience may be included on a team that does not have a CRSS or CFPP, provided that the certification is obtained within 18 months after the date of hire; and
- One other staff member meeting the credentials to provide one or more of the services detailed in in Section 140.453(b)(3)(A) and (d)(2)(G).

D) Service Target Profile. ACT services are intended for individuals who require intensive services being delivered by a multi-disciplinary team to remain stabilized in the community, as evidenced by having a Serious Mental Illness (SMI) and meeting the following criteria:

i) One of the following:

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- Behavioral health issues that have not shown improvement through participation in less intensive behavioral health services;
 - A history of unsuccessful treatment compliance with elements of the individual's Treatment Plan, Crisis Safety Plan or prescribed medications impacting their behavioral health condition;
 - Compounding treatment factors, such as: medical complexity, including cognitive impairment, additional medical conditions, and/or medication resistance; issues with social determinates, including chronic homelessness, repeat arrest, and/or incarceration; or behavioral complexity, including inappropriate public behavior (e.g., public intoxication, indecency, disturbing the peace) or other behavioral problems.
- ii) One of the following:
- At risk of, or at risk of recidivism to, institutionalization;
 - Repeated utilization of crisis services or emergency services for an underlying behavioral health condition;
 - Current, or history within the last three months of (inclusive of threats of), suicidal ideation or gestures or harm to self or others; or
 - Frequent utilization of detoxification services.
- E) Provider-based Utilization Management
- i) The team shall meet daily.

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- ii) The team shall review all active ACT individuals and determine progress in services, minimally on a weekly basis.
 - iii) The individual's Integrated Assessment, Treatment Plan, and ACT services are reviewed monthly by the ACT team lead, in consultation with the ACT Psychiatric Resource, ensuring that the ACT psychiatrist reviews each individual's participation at least once per calendar quarter, to ensure ongoing necessity for service delivery.
 - iv) The ACT Psychiatric Resource shall:
 - Review the individual's progress in service; and
 - Identify any necessary changes in ACT services or service intensity, including transition to less intensive services, documenting all changes in the individual's Integrated Assessment and Treatment Plan.
- fe) Appeals. For appeals regarding program approval, the following shall apply:
- 1) The HFS rules for Medical Vendor Hearings (89 Ill. Adm. Code 104.Subpart C) shall apply to all appeals under this Section, except that:
 - A) Informal review of any appealable issue must be completed by the Department's Bureau of Behavioral Health (BBH) pursuant to this Section before formal appeal of the issue may be requested to the Department's Bureau of Administrative Hearings (BAH); and
 - B) 89 Ill. Adm. Code 104.204, 104.205, 104.206, 104.207, 104.208, 104.210, 104.211, 104.213, 104.216, 104.217, 104.249, 104.260, 104.272, 104.273 and 104.274 shall not apply.
 - 2) A provider may appeal the following actions detailed in this Part:
 - A) Refusal to issue program approval; or

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- B) Revocation of program approval resulting in disenrollment from participation for the specific clinical service in question.
- 3) Informal Review Process
- A) The provider seeking to appeal any of the issues in subsection (e)(2) must first request informal review of the issue by BBH before the issue may be appealed to BAH.
- i) Request for informal review must be submitted in writing to BBH within 10 days after the date of notice of the contested action and must clearly identify the issue or action for which informal review is sought.
- ii) If the request for informal review is received by BBH prior to the Department's intended action taking effect, the action shall be stayed until completion of the informal review and, if applicable, expiration of the subsequent 10 day period to formally appeal the outcome of the informal review to BAH.
- B) The BBH shall complete the informal review of the contested action within 30 days after receipt of the request and shall determine whether to maintain, reverse or modify the action or take other action as necessary.
- i) BBH may request and review all materials pertaining to the informal review held by the Department's vendors, agents or providers.
- ii) BBH shall notify the individual or authorized representative in writing of the result of the informal review. The written notification shall:
- State the result of the informal review, including action to be taken, if any;
 - State the reason and policy basis for the action; and

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- Provide notice of the right to appeal and instructions on how to proceed with formal appeal through BAH.
- C) The provider may appeal the result of the informal review by filing a written request for appeal with BAH within 10 days after the date of the notice of the result of the informal review. If the request for appeal is received by BAH prior to Department's intended action taking effect, the action shall be stayed until the appeal is resolved through final administrative decision or withdrawal of the appeal.
- D) The final administrative decision shall be issued to the interested parties within 90 days after the date the appeal is filed with BAH unless additional time is required for proper disposition of the appeal.
- E) Appropriate action implementing the final administrative decision shall be taken within 30 days after the date the final administrative decision is issued.

(Source: Amended at 43 Ill. Reg. 6736, effective May 28, 2019)

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- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) Section Number: 146.910 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: May 28, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 17309, October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

| <u>Sections Numbers:</u> | <u>Proposed Actions:</u> | <u>Illinois Register Citations:</u> |
|--------------------------|--------------------------|---------------------------------------|
| 146.1000 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |
| 146.1005 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |
| 146.1010 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |
| 146.1015 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |
| 146.1020 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |
| 146.1025 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |
| 146.1030 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

| | | |
|----------|-------------|---------------------------------------|
| 146.1035 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |
| 146.1040 | New Section | 42 Ill. Reg. 24603; December 28, 2018 |

15) Summary and Purpose of Rulemaking: This amendment implements PA 100-587.

16) Information and questions regarding this adopted rule shall be directed to:

Christopher Gange
Acting General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

HFS.Rules@Illinois.gov

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 146

SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section

| | |
|---------|---|
| 146.100 | General Description |
| 146.105 | Definitions |
| 146.110 | Participation Requirements |
| 146.115 | Records and Data Reporting Requirements |
| 146.125 | Covered Ambulatory Surgical Treatment Center Services |
| 146.130 | Reimbursement for Services |

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section

| | |
|---------|--|
| 146.200 | General Description |
| 146.205 | Definitions |
| 146.210 | Structural Requirements |
| 146.215 | SLF Participation Requirements |
| 146.220 | Resident Participation Requirements |
| 146.225 | Reimbursement for Medicaid Residents |
| 146.230 | Services |
| 146.235 | Staffing |
| 146.240 | Resident Contract |
| 146.245 | Assessment and Service Plan and Quarterly Evaluation |
| 146.250 | Resident Rights |
| 146.255 | Discharge |
| 146.260 | Grievance Procedure |
| 146.265 | Records and Reporting Requirements |
| 146.270 | Quality Assurance Plan |
| 146.275 | Monitoring |
| 146.280 | Non-Compliance Action |
| 146.285 | Voluntary Surrender of Certification |
| 146.290 | Geographic Groups |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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| | |
|---------|--|
| 146.295 | Emergency Contingency Plan |
| 146.300 | Waivers |
| 146.305 | Reporting of Suspected Abuse, Neglect and Financial Exploitation |
| 146.310 | Facility Management of Resident Funds |

SUBPART C: STATE HEMOPHILIA PROGRAM

| | |
|---------|-------------------------------|
| Section | |
| 146.400 | Definitions |
| 146.410 | Patient Eligibility |
| 146.420 | Hemophilia Treatment Centers |
| 146.430 | Comprehensive Care Evaluation |
| 146.440 | Home Transfusion Arrangements |
| 146.450 | Obligations of the Department |

SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

| | |
|---------|---|
| Section | |
| 146.500 | General Description |
| 146.510 | Definitions |
| 146.520 | Participation Requirements |
| 146.530 | Records and Data Reporting Requirements |
| 146.540 | Covered Children's Community-Based Health Care Center Services |
| 146.550 | Reimbursement for Services |
| 146.560 | Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center |
| 146.570 | Prior and Post Approval of Services |

SUBPART E: SUPPORTIVE LIVING FACILITIES WITH DEMENTIA CARE UNITS

| | |
|---------|--|
| Section | |
| 146.600 | General Description |
| 146.610 | Structural Requirements |
| 146.620 | Participation Requirements |
| 146.630 | Resident Participation Requirements |
| 146.640 | Services |
| 146.650 | Reimbursement for Medicaid Residents |
| 146.660 | Staffing |
| 146.670 | Assessment and Service Plan and Quarterly Evaluation |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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| | |
|---------|------------------------|
| 146.680 | Monitoring |
| 146.690 | Reporting Requirements |
| 146.700 | Resident Rights |
| 146.710 | Discharge |

SUBPART F: BIRTH CENTERS

| Section | |
|---------|--|
| 146.800 | General Description |
| 146.810 | Participation Requirements |
| 146.820 | Record Requirements |
| 146.830 | Covered Birth Center Services |
| 146.840 | Reimbursement of Birth Center Services |

SUBPART G: SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES

| Section | |
|---------|--------------------|
| 146.900 | General Provisions |
| 146.910 | Reimbursement |

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. 8845, effective May 1, 2006; amended at 31 Ill. Reg. 5589, effective April 1, 2007; emergency amendment at 31 Ill. Reg. 5876, effective April 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11681, effective August 1, 2007; amended at 33 Ill. Reg. 11803, effective August 1, 2009; emergency amendment at 36 Ill. Reg. 6751, effective April 13, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13885, effective August 27, 2012; amended at 37 Ill. Reg. 17624, effective October 28, 2013; expedited correction at 38 Ill. Reg. 4518, effective October 28, 2013; amended at 38 Ill. Reg. 13255, effective June 11, 2014; amended at 38 Ill. Reg. 13893, effective June 23, 2014; amended at 38 Ill. Reg. 15152, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15713, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 23768, effective December 2, 2014; emergency amendment at 39 Ill. Reg. 6945, effective May 1, 2015 through June 30, 2015; emergency amendment at 42 Ill. Reg. 13733, effective July 2, 2018, for a maximum of 150 days; emergency amendment to emergency rule at 42 Ill. Reg. 16311, effective August 13, 2018, for the remainder of the 150 days; amended at 42 Ill. Reg. 16731, effective August 28, 2018; emergency amendment at 42 Ill. Reg. 17935, effective September 24, 2018, for a maximum of 150 days; emergency expired February 20, 2019; amended at 43 Ill. Reg. 6803, effective May 28, 2019.

SUBPART G: SPECIALIZED MENTAL HEALTH REHABILITATION FACILITIES

Section 146.910 Reimbursement

- a) Facilities licensed under Specialized Mental Health Rehabilitation Act of 2013 shall be reimbursed at:
 - 1) the rate in effect on June 30, 2014, less \$7.07 for each facility previously licensed under the Nursing Home Care Act on June 30, 2013;
 - 2) the rate in effect on June 30, 2013 for each facility licensed under the Specialized Mental Health Rehabilitation Act on June 30, 2013; ~~or~~
 - 3) effective for services provided on or after July 1, 2017, the rate in effect on June 30, 2017 increased by 2.8%; ~~or~~
 - 4) effective for services provided on or after July 1, 2018, the rate in effect on June 30, 2018 increased by 4%.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- b) Any adjustment in the support component or the capital component for facilities licensed by the Department of Public Health under the Nursing Home Care Act shall apply equally to facilities licensed by the Department of Public Health under the Specialized Mental Health Rehabilitation Act of 2013.
- c) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 153, facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013 shall receive a payment in the amount of \$29.43 per licensed bed, per day, for the period beginning June 1, 2014 and ending June 30, 2014.
- d) Facilities licensed or provisionally licensed under the Specialized Mental Health Rehabilitation Act of 2013 on or before June 1, 2018 will be reimbursed for therapeutic visits that have been indicated by an interdisciplinary team as therapeutically beneficial at the following:
- 1) Effective for dates of service June 4, 2018 through July 26, 2018, therapeutic visits are reimbursed at a rate of 75% of the facility's rate as of June 4, 2018.
 - 2) Effective for dates of service on or after July 27, 2018, therapeutic visits are reimbursed at a rate of 75% of the facility's rate as of July 27, 2018.
 - 3) Facilities may not be reimbursed for more than 10 consecutive days of therapeutic visits and no more than 20 days of therapeutic visits per State fiscal year.

(Source: Amended at 43 Ill. Reg. 6803, effective May 28, 2019)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Alzheimer's Disease and Related Dementias Services Code
- 2) Code Citation: 77 Ill. Adm. Code 973
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
| 973.100 | New Section |
| 973.110 | New Section |
| 973.120 | New Section |
| 973.130 | New Section |
| 973.140 | New Section |
| 973.150 | New Section |
- 4) Statutory Authority: Alzheimer's Disease and Related Dementias Act [410 ILCS 406]
- 5) Effective Date of Rules: May 23, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 19510; November 2, 2018
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:

The Department made changes to clarify requisite codes that are cross-referenced in this Part and reduced the list of required staff training topics in Section 973.140(e) to the original seven statutorily-required topics and similarly reduced the list of required training elements in Section 973.140(f). In addition, various non-substantive, typographical, grammatical and format changes were made in response to the comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF PUBLIC HEALTH

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- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking creates a new Part, 77 Ill. Adm. Code 973, implementing PA 99-822, which created the Alzheimer's Disease and Related Dementias Services Act [410 ILCS 406] (the Act), and PA 100-1074, trailer legislation that amended the Act pursuant to negotiations between the Department and the Alzheimer's Association.
- 16) Information and questions regarding these adopted rules shall be directed to:

Erin Conley
Rules Coordinator
Illinois Department of Public Health
Division of Legal Services
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/785-9212
e-mail: dph.rules@illinois.gov

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICESPART 973
ALZHEIMER'S DISEASE AND RELATED DEMENTIAS SERVICES CODE

| | |
|---------|----------------------|
| Section | |
| 973.100 | Definitions |
| 973.110 | Referenced Materials |
| 973.120 | Applicability |
| 973.130 | Covered Entities |
| 973.140 | Staff Training |
| 973.150 | Penalties |

AUTHORITY: Implementing and authorized by the Alzheimer's Disease and Related Dementias Act [410 ILCS 406].

SOURCE: Adopted at 43 Ill. Reg. 6810, effective May 23, 2019.

Section 973.100 Definitions

Act – The Alzheimer's Disease and Related Dementias Services Act

Alzheimer's disease and related dementias services – services offered to individuals diagnosed with Alzheimer's disease or a dementia-related disease for the purpose of managing the individual's disease. (Section 10 of the Act)

Alzheimer's Services Supervisor – the person or designee responsible for oversight of Alzheimer's disease and related dementias programs or other specialized memory care units as defined in 77 Ill. Adm. Code 295 and 300.

Client – has the meaning ascribed to it in the Home Health, Home Services, and Home Nursing Agency Code.

Department – the Department of Public Health. (Section 10 of the Act)

Direct access –

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NOTICE OF ADOPTED RULES

provision of nursing care, therapy care or social services; or

assisting with feeding, dressing, movement, bathing, toileting or other personal needs, with the exception of infrequent or unusual occasions.

Director – the Director of Public Health. (Section 10 of the Act)

Entity – any health care facility licensed under the Assisted Living and Shared Housing Act, the Nursing Home Care Act, the Home Health, Home Services, and Home Nursing Agency Licensing Act, and the Hospice Program Licensing Act.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975.

Representative – a person other than the owner not related to the resident, or an agent or employee of an entity not related to the resident, designated in writing by a resident to be his or her representative, or the resident's guardian, or the parent of a resident for whom no guardian has been appointed.

Resident – has the meaning ascribed to it in the Assisted Living and Shared Housing Establishment Code or the Skilled Nursing and Intermediate Care Facilities Code, as applicable.

Section 973.110 Referenced Materials

- a) The Following State Statutes are referenced in this Part:
- 1) Alzheimer's Disease and Related Dementias Special Care Disclosure Act [210 ILCS 4]
 - 2) Assisted Living and Shared Housing Act [210 ILCS 9]
 - 3) Nursing Home Care Act [210 ILCS 45]
 - 4) Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
 - 5) Alzheimer's Disease and Related Dementias Services Act [410 ILCS 406]

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- 6) Probate Act of 1975 [755 ILCS 5]
- 7) Hospice Program Licensing Act [210 ILCS 60]
- b) The following State Administrative Rules are referenced in this Part:
 - 1) Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245)
 - 2) Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)
 - 3) Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
 - 4) Hospice Programs (77 Ill. Adm. Code 280)

Section 973.120 Applicability

- a) *Entities covered by the Act and this Part include, but are not limited to, health care facilities licensed or certified by the Assisted Living and Shared Housing Act; Nursing Home Care Act; Home Health, Home Services, and Home Nursing Agency Licensing Act; and Hospice Program Licensing Act.*
- b) *The Act and this Part do not apply to physicians licensed to practice medicine in all its branches. (Section 15 of the Act)*
- c) *If a conflict occurs between the Act or this Part and the Assisted Living and Shared Housing Act and its administrative rules (77 Ill. Adm. Code 295), the Nursing Home Care Act and its administrative rules (77 Ill. Adm. Code 300), or the Alzheimer's Disease and Related Dementias Special Care Disclosure Act, then those Acts or rules shall prevail. (Section 25 of the Act)*

Section 973.130 Covered Entities

- a) Any and all Alzheimer's disease or related dementias services shall comply with the Act and this Part, and with the Alzheimer's Disease and Related Dementias Special Care Disclosure Act.

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- b) The entity must have a care plan for all clients or residents with an Alzheimer's disease or related dementias diagnosis. The plan shall be implemented in accordance with nationally recognized standards of care or guidelines for Alzheimer's disease and related dementias. Examples of organizations that promulgate nationally recognized Alzheimer's guidelines include, but are not limited to, the Alzheimer's Association (ALZ), the National Institutes of Health (NIH), the National Institute on Aging (NIA), and the National Council of Certified Dementia Practitioners (CDP). Additionally:
- 1) Establishments licensed under the Assisted Living and Shared Housing Establishment Act shall comply with 77 Ill. Adm. Code 295.4060(a) through (i).
 - 2) Facilities licensed under the Nursing Home Care Act shall comply with 77 Ill. Adm. Code 300.7020, 300.7030, 300.7040 and 300.7050.
 - 3) Agencies licensed under the Home Health, Home Services, and Home Nursing Agency Licensing Act shall comply with 77 Ill. Adm. Code 245.
 - 4) Hospice programs or hospice residences licensed under the Hospice Program Licensing Act shall comply with 77 Ill. Adm. Code 280.2010 and 280.2040.
- c) *Materials defining the philosophy of the services, specific services offered, and behavior management tactics and drug therapies employed shall be provided to a resident or the resident's representative upon admission or enrollment to an entity, or earlier upon request, including a disclaimer that the services are not certified under the Alzheimer's Disease and Related Dementias Special Care Disclosure Act.*
- d) *Advertising or verbally offering to provide Alzheimer's disease and related dementias services that are not in compliance with the Act and this Part is prohibited. (Section 25 of the Act)*

Section 973.140 Staff Training

- a) An Alzheimer's services supervisor working in an entity licensed under 77 Ill. Adm. Code 295 or 300 shall complete at least 12 hours of continuing education annually, especially related to the care of residents or clients with Alzheimer's

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disease or other related dementias and shall have documented course work in dementia care and ability-centered care. An Alzheimer's services supervisor shall also meet at least one of the following requirements:

- 1) Have an associates or bachelor's degree or be a registered nurse and have at least one year of experience working with persons with Alzheimer's disease and other related dementias and have completed training in ability-centered care (see 77 Ill. Adm. Code 300.7030); or
 - 2) Have a minimum of five years of experience working with persons with Alzheimer's disease and other related dementias, at least two years of which are management experience working with persons with Alzheimer's disease and other related dementias and have completed ability centered care training.
- b) An Alzheimer's services supervisor working in an entity licensed under 77 Ill. Adm. Code 245 or 280 shall complete at least eight hours of training annually related to the care of residents or clients with Alzheimer's disease and other related dementias, and shall meet at least one of the following requirements:
- 1) Achieve a certification from either the Alzheimer's Association's EssentiALZ program, a certified dementia specialist (CDS) credentialing certificate, or certification by the National Council of Certified Dementia Practitioners (CDP) as a certified dementia practitioner; or
 - 2) Have a minimum of two years of experience working with persons with Alzheimer's disease and other related dementias, at least one year of which is management experience working with persons with Alzheimer's disease and other related dementias, and have completed ability-centered care training.
- c) *Staff with direct access to clients with Alzheimer's disease or a related dementia hired after June 2, 2019 shall complete a minimum of 6 hours of initial training in the first 60 days of employment using an Alzheimer's disease and related dementias services curriculum, as defined in subsection (e).*
- d) Subsection (c) *shall not apply to the following:*

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- 1) *Staff who received at least 6 hours of comparable training in compliance with licensure or certified training requirements prior to being hired; and*
 - 2) *Staff temporarily hired or temporarily detailed by a facility licensed under the Nursing Home Care Act to permit the facility to meet statutory staffing requirements.*
- e) *An Alzheimer's disease and related dementias services curriculum shall include, at a minimum, the following topics:*
- 1) *Understanding dementia (e.g., hoarding, paranoia, hallucinations, and Sundown syndrome);*
 - 2) *Effectively communicating with individuals with dementia;*
 - 3) *Assisting individuals with dementia in performing activities of daily living;*
 - 4) *Problem solving with individuals with dementia who exhibit challenging behavior (e.g., aggressive and catastrophic behaviors);*
 - 5) *Fundamentals of dementia care;*
 - 6) *Safe environments (e.g., wandering);*
 - 7) *Managing the activities of individuals with dementia.*
- f) *As of June 2, 2019, staff with direct access to clients with dementia shall receive 3 hours of advanced training on caring for individuals with Alzheimer's disease and related dementias each year. The mandated training shall include, at a minimum:*
- 1) *Promoting resident dignity, independence, individuality, privacy and choice;*
 - 2) *Resident rights and principles of self-determination;*
 - 3) *Care of elderly persons with physical, cognitive, behavioral and social disabilities; and*

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- 4) Effectively communicating with individuals with dementia.
- g) *As of June 2, 2019, Alzheimer's disease and related dementias services employers shall maintain training records and make them available to the Department on request. (Section 30 of the Act)*

Section 973.150 Penalties

- a) *Any entity licensed, certified, or regulated by the State that knowingly holds itself out as a provider of Alzheimer's disease and related dementias services and fails to comply with the Act and this Part is deemed to have violated the statute or statutes governing the licensure, certification, or regulation of the entity and any contract or agreement the entity has with the State.*
- b) *Any entity not operated by the federal government or any agency thereof, or individual not covered by subsection (a), that knowingly holds himself, herself, or itself out as a provider of Alzheimer's disease and related dementias services and fails to comply with the Act and this Part is guilty of a business offense punishable by a fine of at least \$1,001 (Section 40 of the Act).*

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Cyber Navigator Program
- 2) Code Citation: 26 Ill. Adm. Code 213
- 3)

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Adopted Actions:</u> |
| 213.10 | New Section |
| 213.20 | New Section |
| 213.30 | New Section |
| 213.40 | New Section |
| 213.50 | New Section |
- 4) Statutory Authority: Implements Section 1A-55 of the Illinois Election Code [10 ILCS 5/1A-55] and is authorized to adopt rulemaking by that Section.
- 5) Effective Date of Rules: May 21, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 1733; February 8, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: There were no changes made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking creates a Cyber Navigator Program to support the efforts of Illinois' election authorities to defend against cyber breaches and detect and recover from cyber-attacks. The Cyber Navigator Program will

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NOTICE OF ADOPTED RULES

enhance the cybersecurity of the State's election infrastructure, and help protect it from cyber-attacks.

- 16) Information and questions regarding these adopted rules shall be directed to:

Kenneth R. Menzel, General Counsel
State Board of Elections
2329 S. MacArthur Blvd.
Springfield IL 62704

217/782-4141
kmenzel@elections.il.gov
hkimmons@elections.il.gov

The full text of the Adopted Rules begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED RULES

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 213

CYBER NAVIGATOR PROGRAM

Section

| | |
|--------|--|
| 213.10 | General Provisions and Definitions |
| 213.20 | Infrastructure – Illinois Century Network (ICN) Connectivity |
| 213.30 | Outreach – Cyber Security Information Sharing |
| 213.40 | Personnel – Cyber Navigators |
| 213.50 | Participation in Cyber Navigator Program |

AUTHORITY: Implementing and authorized by Section 1A-55 of the Election Code [10 ILCS 5/1A-55].

SOURCE: Adopted by emergency rulemaking at 42 Ill. Reg. 16769, effective August 30, 2018; emergency expired January 26, 2019; adopted at 43 Ill. Reg. 6819, effective May 21, 2019.

Section 213.10 General Provisions and Definitions

- a) *The State Board of Elections shall provide by rule, after at least 2 public hearings of the Board and in consultation with the election authorities, a Cyber Navigator Program to support the efforts of election authorities to defend against cyber breaches and detect and recover from cyber-attacks. The rules shall include the Board's plan to allocate any resources received in accordance with the Help America Vote Act of 2002 (HAVA) Pub. L. No. 107-252, 116 Stat. 1666 (codified at 42 USC 15301 et seq. (2002)) and provide that no less than half of any funds received shall be allocated to the Cyber Navigator Program. The Cyber Navigator Program will be designed to provide equal support to all election authorities, with allowable modifications based on need. The remaining half of the Help America Vote Act funds shall be distributed as the State Board of Elections may determine, but no grants may be made to election authorities that do not participate in the Cyber Navigator Program. (Section 1A-55 of the Code)*
- b) Definitions

"Board" – The Illinois State Board of Elections.

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"Code" – The Illinois Election Code [10 ILCS 5].

"Compromised" – The state in which a computer system, network, or data has had its integrity, availability, or confidentiality undermined by an attacker.

"Cyber" – Of, relating to, or involving computers or computer networks (such as the internet).

"Cyber Navigator" – Cybersecurity personnel directed by the State to enhance the cybersecurity posture of election jurisdictions.

"Cybersecurity" – The activity, process, ability, capability, or state by which information and communications systems and the information contained in those systems are protected from, and/or defended against, damage, unauthorized use or modification, or exploitation.

"Cybersecurity Posture" – Overall cyber security strength, particularly as it relates to the internet and vulnerability to outside threats.

"Database" – A structured set of data held in a computer, especially one that is accessible in various ways.

"Department of Innovation and Technology" or "DoIT" – The State agency with responsibility for the information technology (IT) functions of agencies under the jurisdiction of the Governor. This term also includes the agency tasked with managing the Illinois Century Network.

"EI-ISAC" – The Elections Infrastructure Information Sharing and Analysis Center.

"Illinois Century Network" or "ICN" – A service that creates and maintains high speed telecommunications networks providing communication links to and among Illinois schools, institutions of higher education, libraries, museums, research institutions, State agencies, units of local government, and other local entities providing services to Illinois citizens.

"MS-ISAC" – The Multi-State Information Sharing and Analysis Center.

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"Phishing" – The fraudulent attempt to obtain sensitive information such as usernames, password and credit card details, often for malicious reasons, by disguising as a trustworthy entity in an electronic communication.

"STIC" – The Statewide Terrorism and Intelligence Center

"Spear-phishing" – A more targeted form of phishing in which attackers first gain knowledge of their intended target and in which the intended target is a small group or individual.

"Whitelist" – A list of items that are granted access to a certain system or protocol. When a whitelist is used, all entities are denied access, except those included in the whitelist.

- c) The Board will use no less than half of the funds from the 2018 HAVA Election Security Grant to implement the Cyber Navigator Program as provided in this Part.

Section 213.20 Infrastructure – Illinois Century Network (ICN) Connectivity

- a) The Board will modify the Statewide voter registration database, including the electronic canvas transmissions, to allow for connection from local election jurisdictions via an ICN established internal network.
 - 1) The Board will make a reasonable effort for all direct connectivity to the Board's Statewide registration database to be from known whitelisted IP addresses.
 - 2) Once all jurisdictions are connected via the ICN, the Board will require all system traffic between the election jurisdiction and the Board to use private IP addressing.
- b) Each election jurisdiction participating in the Cyber Navigator Program shall connect to the Board's Statewide voter registration database via the ICN or shall enter into an agreement to connect via the ICN as soon as practicable.
- c) The Board will take the appropriate steps to establish an Interagency Agreement with DoIT to provide the election jurisdictions access to a reliable ICN connection, for the purposes outlined in this Section.

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- d) The Board shall take all reasonable steps to have DoIT provide such protective services as listed below to each election authority's connection on the ICN.
 - 1) A firewall shall be configured such that it provides protections for the election authority's connection through the ICN.
 - 2) Software shall be installed to provide protection against attempted Distributed Denial of Service Attacks (DDoS).
 - 3) Election jurisdiction connections on the ICN shall be eligible to receive DoIT's Security Operation Center (SOC) 24/7 monitoring.
 - 4) Election jurisdiction connections shall have Albert Sensor, or comparable device, intrusion detection.

Section 213.30 Outreach – Cyber Security Information Sharing

The Board shall establish an Interagency Agreement with the Illinois State Police's Statewide Terrorism and Intelligence Center (STIC) to develop a cyber security outreach and/or awareness program. The Interagency Agreement shall include the following:

- a) The Board shall hire at least one individual as the Program Manager and he/she shall:
 - 1) Work with the Cyber Navigators to compile relative information for distribution to all affected parties.
 - 2) Be assigned to STIC as the coordinator for conducting outreach to county election officials and election boards in the State of Illinois.
 - 3) Contact or meet each county election official and election board commission staff. The Program Manager shall use already established professional associations and networks to facilitate the communication.
 - 4) Identify the election official and person in charge of IT in each county and shall also identify the election board commissioners' person in charge of IT.

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- 5) Process applications for those who have a "need to know" to receive information classified as For Official Use Only. The Program Manager shall maintain a database of these persons.
 - 6) Disseminate information on "best practices" identified by DoIT or the Cyber Navigators to each county election official and election board or commission staff.
 - 7) Share cyber-related information with the county election officials, election boards, and those in charge of the IT of those officials/boards/commissions. This information will come from a variety of sources, including, but not limited to: FBI, Department of Homeland Security, MS-ISAC, STIC. The Program Manager shall identify the official's/board's/commission's information needs and ensure these requirements are being met.
 - 8) On a daily basis, research and gather information pertinent to cyber attacks and cyber resiliency. The Program Manager shall disseminate information daily by e-mail to vetted partners and produce intelligence notes based on information received from program participants by researching, validating, and analyzing the data.
 - 9) Serve as a resource to assist county election officials and election boards with information on who to contact (e.g., STIC, FBI, DHS, MS-ISAC, DoIT, and the Illinois National Guard) regarding response to cyber attacks. STIC already has relationships with these entities.
 - 10) Facilitate training webinars and conferences for information sharing.
 - 11) Provide routine administrative updates to the Board and produce an annual report assessing the effectiveness of the program.
 - 12) Be responsible for maturing the program.
 - 13) Oversee security awareness training for election authorities and their staff.
- b) Participants in the Cyber Navigator Program shall at least once per calendar year complete an online security awareness training on common areas of vulnerabilities, including spear-phishing and phishing assessments.

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- c) Data Sharing Related to a Known Compromise of an Election System
 - 1) Election authorities shall notify the Board as soon as reasonably possible in the event of a security compromise related to any of their election systems.
 - 2) The Board shall notify all election authorities as soon as reasonably possible in the event of a security compromise related to the Board's statewide registration database.

Section 213.40 Personnel – Cyber Navigators

- a) The Board shall take steps to pursue entering into an interagency agreement with DoIT to provide cyber security personnel resources for an election jurisdiction cyber assistance program. These personnel will be known as Cyber Navigators and they:
 - 1) shall work to increase election jurisdictions' cyber security posture;
 - 2) analyze system and network documentation for accuracy;
 - 3) recommend that software updates and patches are regularly applied to information systems;
 - 4) make recommendations for secure e-mail accounts and best practices regarding these accounts;
 - 5) provide guidance for anti-malware tools and their deployment on both servers and workstations;
 - 6) perform risk assessments for each election jurisdiction;
 - 7) assist jurisdictions and/or their IT departments with assessing their systems based on the Center for Internet Security's recommended procedures.
- b) The proposed interagency agreement will direct DoIT to provide 9 Cyber Navigators on a personal services contract basis for an initial 12 month "startup" phase. The ongoing need will be evaluated as the program matures. The Board

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shall pay the associated costs (payroll, travel, etc.) using 2018 HAVA Election Security Grant funds, if available. The duties of these individuals is outlined in subsection (a).

Section 213.50 Participation in Cyber Navigator Program

In order for an election authority to be eligible for funds from the 2018 HAVA Election Security Grant, the jurisdiction must participate in the Cyber Navigator Program. Election authorities participating in the Cyber Navigator Program shall submit a completed Certification of Participation in the program that must be received by the Board no later than March 15, 2019 to be eligible for funds from the 2018 HAVA Election Security Grant.

- a) Election Authority Minimum Requirements
 - 1) The election authority must utilize the ICN for connectivity to the Board as outlined in this Part or enter into an agreement to do so as soon as practicable.
 - 2) The election authority must participate in the outreach portion of the program, including:
 - A) Register with at least the Election Infrastructure EI-ISAC;
 - B) Work with the Program Manager to establish two-way data sharing; and
 - C) At least one designee from the election authority shall complete the security awareness training on at least a yearly basis as outlined in Section 213.30(b).
 - 3) The election authority shall allow the Cyber Navigators to complete a risk assessment and an analysis against the Center for Internet Security's recommended procedures.
- b) Program Manager/Cyber Navigator Requirements
 - 1) The Program Manager shall provide in writing to the Board verification for each election authority that has met its requirements as outlined in subsection (a).

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- 2) The Cyber Navigator shall provide in writing to the Program Manager verification for each election authority under review by that Navigator that has met the requirements outlined in subsection (a)(3).

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- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3) Section Numbers: Adopted Actions:
250.100 Amendment
250.110 Amendment
- 4) Statutory Authority: State Universities Civil Service Act [110 ILCS 70]
- 5) Effective Date of Rules: May 23, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 3129; March 8, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Agency made one change correcting Section 250.110(e)(3) in regards to a reference point in the adopted version of these rules.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Section 250.110(e) of these adopted rules were amended in regards to Section 36f(c) of the State Universities Civil Service Act where a different examining procedure may be used to hire Police Officers at the Illinois public higher education universities. Section 250.110 was revised to add language in regards to the serving of a subpoena on a person in matters related to the discharge/demotion

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process. Also, language was added that will allow for settlement agreements between the employer and the employee after an employer has filed Written Charges for Discharge on an employee and the employee requested a hearing before the Merit Board. In the section regarding the "Final Decision of the Merit Board" the minimum number of days that the Merit Board can suspend an employee was reduced from 60 days to 3 days. Also some minor technical changes were made.

16) Information and questions regarding these adopted rules shall be directed to:

State Universities Civil Service System
Jeff Brownfield
Executive Director
1717 Philo Road, Suite 24
Urbana IL 61802

217/278-3150
jeffb@sucss.illinois.gov

The full text of the Adopted Amendments begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEM

PART 250

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Section

| | |
|---------|---|
| 250.5 | Definitions |
| 250.10 | Purpose, Adoption, and Amendment of Rules |
| 250.20 | The State Universities Civil Service System and its Divisions |
| 250.30 | The Classification Plan |
| 250.40 | Military Service Preference, Veterans Preference |
| 250.50 | Examinations |
| 250.60 | Eligible Registers |
| 250.70 | Nonstatus Appointments |
| 250.80 | Status Appointments |
| 250.90 | Probationary Period |
| 250.100 | Reassignments and Transfers |
| 250.110 | Separations and Demotions |
| 250.119 | Furloughs |
| 250.120 | Seniority |
| 250.130 | Review Procedures |
| 250.140 | Delegation of Authority and Responsibilities |
| 250.150 | Training |
| 250.160 | Suspension of Rules |

AUTHORITY: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

SOURCE: Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg.

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1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective February 29, 1996; amended at 30 Ill. Reg. 17384, effective October 23, 2006; amended at 31 Ill. Reg. 15848, effective November 13, 2007; amended at 32 Ill. Reg. 17268, effective October 16, 2008; amended at 33 Ill. Reg. 11644, effective July 22, 2009; amended at 36 Ill. Reg. 6014, effective April 6, 2012; amended at 37 Ill. Reg. 419, effective December 26, 2012; amended at 39 Ill. Reg. 13504, effective December 1, 2015; amended at 40 Ill. Reg. 3105, effective January 26, 2016; emergency amendment at 40 Ill. Reg. 3772, effective March 1, 2016, for a maximum of 150 days; amended at 40 Ill. Reg. 11192, effective August 4, 2016; amended at 40 Ill. Reg. 16302, effective December 12, 2016; amended at 41 Ill. Reg. 11576, effective August 30, 2017; amended at 42 Ill. Reg. 24268, effective December 3, 2018; amended at 43 Ill. Reg. 6829, effective May 23, 2019.

Section 250.100 Reassignments and Transfers

- a) Reassignment within a Place of Employment:
 - 1) An employer may reassign an employee during his/her probationary period to any position of the same class within a place of employment, subject to conditions imposed by the recognition of lesser units. An employee so reassigned shall be required to complete his/her probationary period in the class.
 - 2) An employer may reassign a status employee to another position of the same class within a place of employment, but the employee shall not be required to serve any additional probationary time in the class. Reassignment shall be without prejudice to seniority in the class or in the promotional line of which that class is a part, subject to conditions imposed by recognition of lesser units.
 - 3) All reassignments shall take precedence over any existing registers.
- b) Temporary Downgrading and Upgrading:
 - 1) Temporary Downgrading. If it is necessary to assign a status employee, on a temporary employment basis to a temporary or permanent position which is classified at a lower level, the employee's salary, at the time immediately prior to such assignment, will be maintained.
 - 2) Temporary Upgrading. If a status employee is assigned, on a temporary

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employment basis, to a temporary or permanent position of higher rate or range, the employee is entitled during the period of upgrading to receive ~~the~~ higher rate or a salary within ~~the~~ higher range provided that no employee shall suffer any reduction in salary because of ~~the~~ assignment.

- 3) ~~The~~ temporary upgrading and downgrading assignments must not be for more than 30 consecutive work days duration.
 - 4) An employer makes ~~such~~ temporary downgrading assignments by assigning a status employee who meets the minimum qualifications of the class to which assignment is being made. An employer makes ~~such~~ temporary upgrading assignments by assigning status employees from active registers for the class so long as ~~those~~ registers exist. When a need for temporary upgrading assignments occurs in classes that utilize work shifts, the register requirement applies only to those status employees on the appropriate shift. Acceptance of, or refusal to accept, ~~such~~ a temporary assignment by an employee shall in no way affect the employee's position on the register, regardless of the number of acceptances or refusals.
 - 5) In the absence of a register, an employer may assign only those status employees who meet the minimum qualifications for the class to which assignment is being made.
 - 6) When ~~a temporary~~ ~~such an~~ assignment has been made, seniority shall continue to be accrued in the class in which the employee has a status appointment.
- c) Transfer to Another Place of Employment:
- 1) An employer, with the approval of the employee involved, may transfer a status employee from one place of employment to a position of the same class in another place of employment within the same institution or agency, provided there are no names on the reemployment register for that class in the place of employment to which the employee is being transferred. The employee is not required to serve a second probationary period in the new place of employment.

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- 2) A status employee may request that his/~~her~~ name be transferred to any other place of employment within the System and be placed on the original entry register at that place of employment in the class in which he/~~she~~ has a status appointment. Upon acceptance of ~~the~~his request by the appropriate employer, his/~~her~~ name shall be placed on the original entry register in accordance with his/~~her~~ total service in the class as of date of ~~the~~his request for transfer. If this employee accepts a status appointment at the place of employment to which his/~~her~~ name was transferred, he/~~she~~ is not required to serve a second probationary period.
 - 3) An employee, whose name has been certified from the register and who has not completed ~~the~~his probationary period, may have the examination score for the class in which he/~~she~~ is employed transferred, at ~~the~~ ~~employee's~~his request, to another place of employment within the System. ~~That employee's, and his~~ name shall be placed on the original entry register for that class by score at ~~the~~sueh place of employment. He/~~she~~ must serve a full probationary period at the new place of employment.
 - 4) When a function of an institution or agency covered by the System is transferred to another institution or agency covered by the System, employees previously certified within the System who are affected by the transfer shall transfer the same accrued seniority or service as determined by their original date of certification.
- d) Transfer of a State Employee under the Personnel Code [\[20 ILCS 415\]](#) to Employment under the System:
- 1) The procedures for effecting the transfer of a State ~~of Illinois~~ employee from a position under the Personnel Code to a comparable position under the University System shall be the same as those ~~that~~which apply to the transfer of an employee within the System from one place of employment to another, as stated in ~~subsections~~ ~~Section 250.100~~(c)(1) and (2).
 - 2) The term, "status," as used in Section 36q ~~of the Act, third paragraph,~~ ~~paragraph 3 of the Statute,~~ shall refer to:
 - A) the employee's status under the Personnel Code as a probationary or a status employee;

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- B) his/her eligibility to accrue credits for vacation, sick leave, and personal leave benefits, as determined by years of consecutive service to the employer from which he/she is transferring; and
 - C) his/her eligibility for a specific pay rate where the pay rate of an employee is determined by years of service.
- 3) Seniority earned by a State-~~of Illinois~~ employee under the Personnel Code is not transferable.
 - 4) When a State ~~agency of Illinois Agency~~ becomes subject to the Act ~~governing the State Universities Civil Service System~~, previously certified employees under the regular classified-~~State of Illinois~~ Personnel Code affected by the transfer shall transfer the same accrued seniority as determined by their original date of certification.
- e) Appointment of Law Enforcement Personnel Employed by Illinois Municipal Police Departments, County Sheriff's Departments or the State of Illinois
- 1) An employer may, but is not required to, place the names of applicants who are currently employed as law enforcement officers at either a municipal law enforcement agency or a county sheriff's office within the State of Illinois, or by the State of Illinois, at the applicant's request, on "transfer list", subject to the provisions of this subsection (e).
 - 2) To be eligible for appointment under this subsection (e):
 - A) the applicant must have:
 - i) successfully completed at least 2 years of employment as a full-time sworn and certified law enforcement officer with a municipal law enforcement agency or a county sheriff's office within the State of Illinois or with the State of Illinois; and
 - ii) satisfied the requirements established by the Illinois Law Enforcement Training and Standards Board;

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B) no more than 2 positions at any place of employment may be filled and occupied under this subsection (e) in any given 5 year period; and

C) the applicant must not have been suspended for disciplinary reasons by the current or most recent employer.

3) Any applicant hired pursuant to this subsection (e) must serve a probationary period of 12 months.

(Source: Amended at 43 Ill. Reg. 6829, effective May 23, 2019)

Section 250.110 Separations and Demotions

- a) Resignation. An employee having a nonstatus or status appointment, as described in Sections 250.70 and 250.80, may resign by presenting a signed resignation to his/her employer or by demonstrating to the employer by other means his/her intent to separate from employment. Upon receipt of a signed resignation by the employee or other evidence of intent to separate from employment, the employee will be separated from his/her employer. The employer shall maintain all resignations or other documentation of evidence in accordance with the employer's record retention policy.
- b) Leave of Absence
- 1) Leave of Absence for Classification Changes. A status employee who accepts a position that represents a promotion in a class outside his/her promotional line shall be granted a leave of absence from a position of his/her former class for the duration of any intern appointment, provisional appointment, and/or probationary period in the new class.
 - 2) Leave of Absence for Disciplinary Actions. An employee placed on a Disciplinary Suspension or on a Suspension Pending Discharge shall be placed on a leave of absence from his/her position.
 - 3) Leave of Absence for Disability Leave
 - A) If an employee is no longer able to perform the duties and responsibilities of his/her position in the class due to a disability as

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determined by the employer's medical and/or psychological evaluation procedures, and/or in accordance with State and federal laws, the employee will be required to take disability leave in accordance with subsection (b)(3)(B).

- B) A status employee who becomes eligible for disability benefits to be paid by the employer or, as later determined, by the Illinois State retirement system to which the employee contributed, or becomes eligible for payment benefits as defined by the Workers' Compensation Act [820 ILCS 305], the Illinois Occupational Diseases Act [820 ILCS 310], or a State self-insurance program, shall be granted a disability leave. The disability leave shall be the period for which the employee applies for such benefits, until the time of the expiration of the benefits or a final administrative decision denying or terminating the benefits, including any gap in benefit payments between the expiration of institutional benefits and those available under the approving authority.
- C) The employer may require an employee to take a medical and/or psychological examination prior to returning to work after a disability leave. The examination shall be conducted by a licensed practitioner selected by the employer to determine the physical and/or mental capability to perform the essential duties of the employee's position. The employer may supply the examining practitioner with facts relating to the employee's difficulty or inability to perform the essential functions of the job and may supply additional information, including but not limited to physical and mental requirements of the employee's position, duty statement, job classification specification, and position description. The employee may also present an alternative opinion provided by a licensed practitioner to be selected and paid for by the employee. If there is a difference of opinion, a third outside practitioner shall be selected by the ~~two~~ physicians. The employer shall pay for all examinations, except those initiated by the employee.
- D) An employee's refusal to submit to an examination as described in subsection (b)(3)(C), the unexcused failure to appear for such an examination, or the refusal to release the results of the examination may be deemed by the employer as an acknowledgement that the

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employee is not fit for duty and may subject the employee to termination actions as defined in subsection (c).

- E) A disability leave may be revoked by the employer upon evidence that the cause for granting the leave was misrepresented.
- F) At the expiration of all disability benefits, an employee shall be entitled to return to a position in his/her class without any loss of status due to the disability leave, providing that he/she returns upon the expiration of all disability benefits to which entitled.
- G) Reemployment
 - i) If an employee does not return to work at the expiration of all disability benefits and is terminated in accordance with subsection (c)(2), the employee may, within one year following the expiration of all disability benefits, request reinstatement and, upon approval of the Executive Director, the employee's name may be placed on the reemployment register in the class in which he/she was employed at the time the disability leave was granted and in accordance with total seniority earned.
 - ii) If, within one year following the expiration of all disability benefits, the employee requests reinstatement, but, because of his/her disability, is deemed unable to perform the duties in the class, the employee may be required to pass physical or other tests to determine employability under the University System.
- 4) Military Leave of Absence. An employee shall be granted a Military Leave of Absence in accordance with State and federal laws and regulations.
- 5) Notification
 - A) The employer may select:
 - i) to notify the Executive Director of all leaves of absence, including military, disability, or any other leave otherwise

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granted; or

- ii) to maintain these records for inspection upon request by the Executive Director or designee during the on-site audit program or other specified time.

- B) The notification shall include the beginning and ending dates of leaves that exceed 30 calendar days of non-pay status.

c) Termination

- 1) An employee having a non-status appointment, as described in Section 250.70 ~~of this Part~~, may be terminated by his/her employer at any time during the training period and/or upon completion of the work assignment.
- 2) An employee on disability leave, as defined in subsection (b)(3), who has exhausted all of his/her disability benefits and is unable to resume the duties and responsibilities of a position in his/her class may be terminated from employment in accordance with subsection (c)(5), or the employer and employee may agree upon employment in a more suitable classification. The alternative employment options shall be subject to standard civil service employment protocols.
- 3) An employee who fails to report for duty after a disability leave of absence has expired or has been denied, disapproved, revoked, or canceled by the approving authority, or any other failure to report for duty as scheduled after a disability leave of absence, may be terminated from employment in accordance with subsection (c)(5).
- 4) An employee who fails to report for duty after he/~~or~~ she has exhausted benefits under the Family and Medical Leave Act (FMLA) may be terminated from employment in accordance with subsection (c)(5).
- 5) Appropriate notification shall be provided to an employee, as specifically referenced in subsections (c)(2), (c)(3) and (c)(4), which will include the notification provisions outlined in this subsection (c)(5).
 - A) The employer shall notify the employee that he/she will be terminated from the employer's service to become effective 7 calendar days from the date of mailing of the notification to the

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employee. The notification shall be sent, by an overnight delivery service that requires signature upon receipt, to the most recent address of the employee as shown on the employer's records.

- B) At any time prior to the effective date of termination, the employee shall have the opportunity to provide to the employer evidence of the reason for the unauthorized absence. The employer shall revoke the termination if the employee provides satisfactory evidence of the reason for the unauthorized absence. If the employer determines that the evidence is not satisfactory, the employer shall notify the employee immediately that the termination will remain in effect.
 - C) Pursuant to Section 250.130 (Review Procedures), the employee may request a review of the employer's final notice of termination. The review is limited to a determination of whether this Section has been properly applied and whether the employer's decision is deemed arbitrary or capricious. In the event a review is not requested within the allotted timeframe, the employee's termination from service shall be effective 7 days after the original notification.
- d) Layoff
- 1) The Executive Director shall be notified promptly of all employees on layoff status, together with the dates of the beginning of layoff and of return to employment from layoff status, when the layoff exceeds 30 consecutive work days. A status employee shall receive a written notice, at least 30 calendar days in advance of the effective date of layoff, when the layoff exceeds 30 consecutive work days; however, the effective date of layoff may be extended up to 15 days without the requirement of further notice.
 - 2) Whenever it becomes necessary to lay off one or more employees, except as provided in subsection (d)(3), the employee who has the least amount of service in the class shall be laid off first, and additional layoffs shall be made in the ascending order of the place of the employee on the service and seniority lists for that class.

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- 3) An employee who is the incumbent of a position for which the Executive Director has authorized specialized certification under Section 250.60(d)(9), or who is the incumbent of a position that has previously been identified as requiring specialized training or experience as required by the position in accordance with minimum acceptable qualifications for the class, may not be bumped by another employee with greater seniority unless the employee with greater seniority possesses the special and identified qualifications authorized for the incumbent's position.
 - 4) Whenever it becomes necessary to reemploy one or more employees in a class, the employee last laid off by seniority shall be reemployed first, and further reemployment shall be made in the order of seniority until the reemployment register for that class is exhausted. Work of short duration requiring reemployment of one or more employees will not require a new written 15 day advance notice of layoff if the work period is to be 5 consecutive working days or less and the work is emergent in nature.
 - 5) A status employee who is subject to layoff from a part-time position may bump an employee in a full-time status position, providing the part-time employee's equivalent full-time accrued seniority based on hours in pay status is greater than that of the least senior employee in a full-time position. A full-time status employee who is subject to layoff may bump the least senior full-time employee, who then may bump the part-time employee having the highest percent-time appointment, providing the full-time employee has more accrued seniority.
 - 6) Names of employees laid off during their probationary periods shall be returned to the register from which they were certified to their position in accordance with service in a status appointment earned as of the date of layoff.
- e) Disciplinary Suspension. An employer may suspend an employee as a disciplinary measure for not more than 30 calendar days.
- 1) The employer will discuss the specific problem pertaining to contemplated suspension with the employee and the Human Resource Director or his/her designee before a suspension notice is served. The employee will be told at that time that suspension is being considered.

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- 2) In imposing a disciplinary suspension, the employer shall serve a written suspension notice on the employee showing reason for the suspension, and shall immediately report the suspension to the Executive Director and shall send a copy of the notice served on the employee, along with proof of service, to the Executive Director.
- 3) Causes justifying suspension, not for discharge as provided for in subsection (f)(~~21~~)(2), shall include, but are not limited to: unauthorized and unexcused absence; leaving work without authority; failure to ring in or out on time card; habitual lateness; punching other time cards; key duplication and/or unauthorized possession of keys; misrepresentation of absence; falsification of records; refusal to do work assigned; failure to follow work schedules; failure to follow time schedules; insolence; failure to adhere to departmental regulations of appearance; smoking in prohibited areas; disregard of safety regulations; careless workmanship resulting in spoilage, waste, or delay; unauthorized use of institutional property; gambling on institutional property; creating or contributing to unsanitary conditions; horseplay or scuffling; fighting; sleeping during working hours; unauthorized visiting; and "loafing on the job".

AGENCY NOTE: It is to be noted that an employee's allegation that a Disciplinary Suspension was unfairly imposed is subject to the grievance procedure established by the employing institution, but is not reviewable by the State Universities Civil Service System (University System).

- f) Discharge Proceedings and Effective Date of Discharge
 - 1) Pre-discharge Proceedings
 - A) Prior to initiating any proceedings before the Merit Board for the discharge of an employee, the employer shall notify the employee in writing, served upon the employee in person if the employee is present on the job or, otherwise, by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, of the employer's intention to initiate the proceedings. The notification shall advise the employee of the substance of the charges proposed to be filed in sufficient detail to inform the employee of the nature of the conduct on which the proposed charges are based. The

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notification shall also advise the employee that either or both of the following options are available to the employee:

- i) within 3 work days after service of the employer's notification, the employee may notify the employer of his/her decision to require the employer to hold a conference with the employee or his/her representative for the purposes of responding to the matters contained in the notification and of attempting to achieve a reconciliation or understanding; and
- ii) within 3 work days after service of notification, the employee may deliver to the employer a written response to the matters contained in the employer's notification; provided that, if the employee elects to require the conference identified in subsection (f)(1)(A)(i), at that conference the employee may request and receive an opportunity to respond further in writing within 3 work days after the conclusion of the conference.

B) Employer's Decision

- i) Within 7 work days after compliance with the provisions of subsection (f)(1)(A), the employer shall either:
 - notify the employee that no further action will be taken to initiate discharge proceedings with the Merit Board against the employee based solely on the matters contained in the employer's notification; or
 - initiate proceedings before the Merit Board under this subsection (f) seeking discharge of the employee based solely on the matters contained in the employer's notification.
- ii) The employer's election not to initiate discharge proceedings with the Merit Board shall not preclude the employer from imposing a suspension in accordance with

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subsection (e) or some lesser penalty.

- C) An employee who has been served with an employer's notification as provided in subsection (f)(1)(A) may be placed on excused absence with pay during all or any part of the period covered by this subsection (f)(1) to provide the employer an opportunity to investigate serious charges.
- 2) Actual Discharge Proceedings
- A) Proceedings before the Merit Board seeking the discharge of an employee shall be initiated by the employer by completing and filing a Written Charges for Discharge form with the Merit Board/University System, employee, legal counsel for employer, and employer, setting forth the causes for discharge in sufficient detail to inform the employee of the nature of the conduct on which the charges are based. The Written Charges for Discharge form shall be set forth in separately numbered charges. Also, the employer shall develop and attach a document that contains the dates, names of persons, places and facts necessary to properly allege the cause for discharge. If a breach of duty, statute or rule of the employer is alleged, the statute, law or rule shall be cited in connection with the charge. Any and all exhibits that the employer plans to present at the time of the hearing shall be submitted in accordance with subsection (f)(11)(B) or as appropriate to the circumstances. The exhibits shall not be attached to the Written Charges for Discharge form.
- B) The Written Charges for Discharge form shall be accompanied by a certification by the employer that all procedures set forth in subsection (f)(1) have been followed and that there has been full compliance with any options elected by the employee. At the time the Written Charges for Discharge form and the certification are filed with the Merit Board/University System office, the employer shall serve copies upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file proof of service with the Merit

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Board/University System office.

- C) At any time prior to commencement of the hearing, the Executive Director may direct or authorize the Written Charges for Discharge to be amended to correct technical defects or to set forth additional facts or allegations related to the subject matter of the original charges. The amendments shall relate back to the original proof of service date of the Written Charges for Discharge form. The employer shall serve copies of the Amended Written Charges for Discharge form upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file proof of service with the Merit Board/University System office.
- D) An employee who has been served with Written Charges for Discharge in accordance with subsections (f)(2)(A) and (B) may be suspended without pay by the employer during all or any part of the period that the discharge proceeding is pending, and until final disposition, if the employer is of the opinion that the employee's presence on the job might constitute a substantial risk of injury to life or property, or might cause a disruptive effect on employer's operations. Any suspension without pay shall become effective on the date the employer serves the Suspension Notice Pending Discharge upon the employee, which may be served with the Written Charges for Discharge or on any date thereafter. Service shall be upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and the employer shall file with the Merit Board/University System office a copy of the Suspension Notice Pending Discharge and proof of service.
- 3) Hearing Request
- A) An employee who has been served with Written Charges for Discharge may request a hearing by filing a written request for

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hearing with the Secretary for the Merit Board within 15 calendar days from the "Proof of Service on Employee" section on the Written Charges for Discharge form that is the date of either personal delivery or mailing of the Written Charges for Discharge form to the employee. The Secretary for the Merit Board shall immediately [acknowledge receipt of the request for a hearing and](#) notify the employer that the employee has filed for a hearing. Thereafter, further proceedings shall be as provided in this subsection (f) and any discharge shall be effective on the date of the discharge order of the Merit Board, unless otherwise expressly stated in the order.

- B) If the employee does not file a written request for hearing with the Secretary for the Merit Board within 15 calendar days from the date specified in the "Proof of Service on Employee" section on the Written Charges for Discharge form, the employee's discharge shall become effective at the end of the 15-day period without further action by the Merit Board. The Secretary for the Merit Board shall promptly notify the employer of the employee's failure to file a timely written request for hearing.
- 4) Hearing Proceedings
- A) Upon receipt of the employee's written request for hearing on the Written Charges for Discharge, the Merit Board/University System office shall promptly appoint a Hearing Board or Hearing Officer to hear the charges and the employee's response. All hearings relating to discharge proceedings shall be convened by and conducted under the control of the Executive Director or his/her authorized representative. The Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to commence the hearing within 10 calendar days after receipt of the employee's written request for hearing, but in no event shall the hearing commence later than 45 days after service of the Written Charges for Discharge, unless a continuance is granted pursuant to subsection (f)(~~2019~~)(B). Dilatory tactics or actions will not be permitted and the Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to conduct the

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hearings in no more than 3 hearing days, unless justice, due process, and fundamental fairness require otherwise. All hearings shall be open to the public unless, upon motion of either party, the Hearing Board or Hearing Officer finds it necessary to close the hearing or parts of the hearing in instances where personal safety is of concern or when confidential testimony/exhibits are to be referenced or revealed. There shall be a presumption that hearings will be closed only under extraordinary circumstances. A transcript of the hearing, including exhibits, shall be made and shall be filed with the Secretary for the Merit Board as soon as possible following the conclusion of the hearing.

- B) Within 15 calendar days after receipt of the transcript from the Secretary for the Merit Board, the Hearing Board or Hearing Officer shall file its findings of fact and any other recommendations with the Secretary for the Merit Board, unless that time is extended by the Executive Director for good cause shown. For the purpose of this Section, good cause shall include, but not be limited to: sickness, attendance at court proceedings, death, weather conditions that prevent the members from meeting. If by that time the findings of fact have not been received by the Secretary for the Merit Board, the Executive Director will either appoint another approved Hearing Board or Hearing Officer that will then review the record and submit findings of fact within 10 calendar days after the appointment, or the Executive Director will give written notice to all Hearing Board members or the Hearing Officer and to all parties to the proceeding that he or she will, within 10 calendar days, discontinue the hearing and commence a new hearing and the present Hearing Board or Hearing Officer will be dismissed without pay. Within this 10-day period following the Executive Director's notice, the Hearing Board or Hearing Officer can appeal to the Executive Director by showing cause why time should be extended.
- C) The Executive Director shall certify as the Hearing Record the Written Charges for Discharge, the Suspension Notice Pending Discharge, the employee's request for hearing, the transcript and exhibits, the Hearing Board's or Hearing Officer's findings of fact and other recommendations, and other documents that have been

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filed.

- D) Upon certification by the Executive Director, the Secretary for the Merit Board shall, by an overnight delivery service that requires signature upon receipt, immediately forward a copy of the Hearing Record, along with notice that the Hearing Record has been certified, to all parties of record. Any objections to the form or contents of the Hearing Record, or briefs, abstracts, or excerpts from the Hearing Record, or arguments, motions, or recommendations, relating to the hearing proceedings or the Hearing Record, or requests for further hearing or for permission to supplement further the Hearing Record by other evidence, must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the overnight delivery service that the Hearing Record has been certified, with proof of service on all parties. No answer or reply briefs and arguments in response to these filings will be permitted unless expressly authorized by the Executive Director or the Merit Board or its Chair.
 - E) A party requesting oral argument before the Merit Board in cases of discharge must file an appropriate motion with the Secretary for the Merit Board with notice to all parties within 14 calendar days after the date of the overnight delivery service of the certified Hearing Record, with proof of service on all parties. The motion must specifically state the issues and any relevant law that will be the subject of argument. The Merit Board will grant or deny the motion at the Merit Board meeting at which oral argument is requested. Oral argument in cases of discharge will generally not be allowed unless novel or precedent setting questions of law or policy are at issue.
- 5) Conduct of Hearing
- A) Pre-hearing Conference. In all hearings, it is recommended that the Hearing Board or Hearing Officer hold a pre-hearing conference immediately preceding the hearing on the first day of the hearing. The Hearing Board or Hearing Officer will give the parties an opportunity to discuss issues and share information at the pre-hearing conference that will allow them to present their

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cases in a fair, efficient, and timely manner. Generally, the Hearing Board or Hearing Officer will conduct the pre-hearing conference for the purpose of achieving one or more of the following points, as determined by the Hearing Board or Hearing Officer on a case by case basis:

- i) defining and simplification of the issues;
 - ii) negotiating admissions or stipulations of fact to avoid unnecessary proof;
 - iii) reviewing each party's witness and exhibit list;
 - iv) limiting redundant witness testimony or duplication of evidentiary material, if necessary;
 - v) determining the length of time each party will need to present its case;
 - vi) exchanging exhibits; and
 - vii) discussing any matter that may aid in the efficient and timely disposition of the case.
- B) Following the Pre-hearing Conference. The Hearing Board or Hearing Officer shall enter into the record any action taken and any agreements made by the parties as to the matters considered. The length and scope of the pre-hearing conference is at the discretion of the Hearing Board or Hearing Officer, but should generally be concluded within a one hour timeframe.
- 6) Order of Hearing
- A) The Executive Director, or authorized representative, shall open and convene the hearing.
 - B) The Executive Director, or authorized representative, shall request all persons who have been asked to serve as witnesses, other than a party or employer representative, to be excluded from the hearing

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room while the hearing is in process, except during their own testimony and cross-examination. Except as he/she might intervene, or be requested to intervene, the Executive Director, or authorized representative, shall empower the Hearing Board or Hearing Officer to proceed with the hearing in such a manner as to provide the employer and the employee a full opportunity to present their positions to the Hearing Board or Hearing Officer.

- C) The parties may make a brief opening statement at the beginning of the hearing. The employer will proceed first, followed by the employee. Opening statements may be waived or may be reserved and presented at the commencement of the party's case-in-chief.
- D) The employer shall first present its case-in-chief, with an opportunity for the employee to cross-examine the employer's witnesses. The employee may be called as an adverse witness during the course of the hearing.
- E) The employee shall then present his/her case-in-chief, with an opportunity for the employer to cross-examine the employee's witnesses.
- F) Each party may call rebuttal witnesses if found to be necessary by the Hearing Board or Hearing Officer.
- G) At the conclusion of the hearing, each party may make an oral closing argument. The employer may be permitted a brief rebuttal at the end of the employee's closing argument.
- H) The hearing shall be closed when the employer and the employee have had a fair and reasonable opportunity to present their positions to the Hearing Board or Hearing Officer.
- I) In addition, each party may submit written arguments, summary statements, and/or briefs within 10 calendar days after conclusion of the hearing. A copy of the written closing arguments must be provided to all parties of record and filed with the Executive Director, with proof of service included. Only written materials submitted within the 10 calendar day timeframe will be forwarded

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with the transcript of evidence and exhibits and considered by the Hearing Board or Hearing Officer, unless otherwise extended by the Executive Director.

- 7) Evidence and Motions
 - A) As a general matter, the rules of evidence and privilege as applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, evidence not admissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the investigation and conduct of serious matters of this nature. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
 - B) All testimony shall be presented under oath or affirmation. Objections to testimony or evidentiary offers shall be noted in the record. Consistent with these requirements and in order to expedite the hearing, any part of the evidence may be received in written form, provided the interests of the parties are not jeopardized.
 - C) The standard of proof applied by the Hearing Board or Hearing Officer when evaluating the charges will be the preponderance of the evidence.
 - D) The Hearing Board or Hearing Officer may, on its own motion or upon motion of one of the parties, take notice of matters of which the circuit courts of the State of Illinois take judicial notice.
 - E) The Hearing Board or Hearing Officer has the authority to rule on all motions that do not dispose of the proceedings. Examples of motions that can be ruled on by the Hearing Board or Hearing Officer are motions in limine or motions to suppress evidence. Motions directed at the Hearing Board or Hearing Officer shall be presented at the pre-hearing conference, if possible, and actions taken by the Hearing Board or Hearing Officer shall be entered into the record.

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- F) Motions that dispose of the proceedings must be directed to the Merit Board. Examples of motions that are to be directed to the Merit Board are motions to dismiss, motions to decide a proceeding on the merits, or motions claiming lack of jurisdiction. Motions must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the overnight delivery service of the certified Hearing Record. Motions will be ruled on by the Merit Board at the Merit Board meeting in which the case is being considered. The filing of a motion of this nature shall not be allowed to cause any delay in the proceedings.
- G) Performance records of the employee or past disciplinary records are admissible and relevant for the purpose of mitigation or aggravation, except if otherwise excluded by a local employer policy or collective bargaining agreement.
- 8) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing. It is the policy of the Merit Board to encourage stipulation of facts whenever practicable.
- 9) Evidence Depositions. Upon request to the Executive Director and upon good cause shown (which shall include, but is not restricted to, potential unavailability of a witness at the time the hearing is scheduled, scheduling or travel arrangement considerations, or agreement of the parties) any party may request a deposition of any witness to be taken for evidence in a hearing. If desired, subpoenas may be requested upon application to the Executive Director in a manner consistent with this Part. The deposition shall proceed in the manner provided by law for depositions in civil actions in the circuit courts of the State of Illinois.
- 10) Subpoenas. Requests for subpoenas shall be directed to the Executive Director at least 5 work days before the scheduled hearing, unless an exception is granted by the Executive Director. Subpoena requests may be granted if reasonably designed to produce or lead to the production of evidence related to the alleged charges and the terms of compliance are reasonable given the time frames and other circumstances. The party requesting the subpoenas shall be responsible for service and costs related to the subpoena of a witness. [A subpoena may be served by personal](#)

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delivery of an executed original to the individual, or by leaving an executed original at the individual's usual place of abode, with some person of the family who is age 13 years or older, provided the server also sends a copy of the subpoena, postage prepaid, addressed to the individual at the individual's usual place of abode. The fees of the witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of the State of Illinois. Subpoenas are effective throughout the course of the proceedings. Requests for subpoenas must be submitted in writing and include the following:

- A) The name and address of the witnesses sought;
 - B) Any specific documents the witnesses will be required to bring; and
 - C) A brief statement of the relevant facts or testimony that the witnesses will be providing.
- 11) Request for Documents. At least 3 working days prior to the hearing, each party shall serve upon the other party and file a copy with the Secretary for the Merit Board, to be submitted to the Hearing Board or Hearing Officer, the following information, to the extent available at that time:
- A) A list of the names and addresses of the witnesses the party proposes to call; and
 - B) All documents the party proposes to offer in its case-in-chief.
- 12) Failure to Appear. Failure of a party to appear on the date set for hearing may result in findings of fact unfavorable to that party and may result in a loss of rights by default.
- A) Failure to Appear by Employee
 - i) A Notice of Convening of Hearing will be sent to all parties of record confirming the date, time and place of the hearing. If an employee or his/her representative is not present on the designated hearing date, the employer will try to make reasonable contact with the employee or his/her

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representative immediately. If, within a reasonable time on the hearing date, the employer is unable to contact the employee, the hearing will commence.

- ii) The Executive Director or his/her authorized representative will commence the hearing with an opening statement. At the conclusion of the opening statement, if the employee or his/her representative has still failed to appear, the hearing will be suspended for 3 work days. During this 3 work day period, the Executive Director or his/her authorized representative will try to make contact with the employee or his/her representative using the last known address, phone, email or any similar method as shown on the Written Charges for Discharge form.
- iii) If the employee or his/her representative cannot be reached within 3 work days or if the employee is unable to produce a reasonable explanation for failure to attend the hearing, the hearing will be closed and the employee's discharge shall become effective at the end of the 15-day period of the date on the Proof of Service on Employee, as found on the Written Charges for Discharge form, without further action by the Merit Board. The Merit Board/University System office shall notify the parties of record immediately of the action.
- iv) If the employee or his/her representative has a reasonable explanation for not attending the hearing, the Executive Director or his/her authorized representative shall schedule a new hearing date. A new Notice of Convening of Hearing will be issued to the parties of record and the Executive Director or his/her authorized representative will appoint either the same Hearing Board or Hearing Officer or appoint a new Hearing Board or Hearing Officer to conduct the hearing.
- v) Reasonable explanations can include, but are not limited to: injury on the day or preceding day of the scheduled hearing, traffic accident, death or significant injury of a

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family member, or other cause that is deemed reasonable by the Executive Director or his/her authorized representative. In any event, the employee is required to demonstrate that there was reasonable effort made to contact the employer or the Merit Board/University System office.

- B) Failure to Appear by Employer. If the employer fails to appear without reasonable cause, as determined by the Executive Director or his/her authorized representative, the employee will be reinstated to his/her position without loss of compensation as of the Proof of Service on Employee date on the Written Charges for Discharge form.
- 13) Disqualification of Assigned Hearing Board or Hearing Officer. A Hearing Board or Hearing Officer may be disqualified on grounds of bias or conflict of interest. An adverse ruling, or the fact that a Hearing Board or Hearing Officer has had contact with the University System, by itself, shall not constitute bias or conflict of interest. Whenever any party believes a Hearing Board or Hearing Officer should be disqualified from conducting an assigned proceeding, that party may file a request with the Executive Director to disqualify the Hearing Board or Hearing Officer, setting forth by affidavit the alleged grounds for disqualification, with proof of service on all parties. The Executive Director shall rule and make the final determination on all requests for disqualification.
- 14) Ex Parte Communications
- A) Except in the disposition of matters they are authorized by law to entertain or dispose of on an ex parte basis, the Merit Board, the Executive Director, employees of the University System Office, and the assigned Hearing Board or Hearing Officer shall not, after the Notice of Convening of Hearing has been issued to the parties of record, communicate, directly or indirectly, with any party or the party's representative regarding any issue of fact or with any person or party in connection with any other issue regarding the case, except upon notice and opportunity for all parties to participate. However, the Merit Board, the Executive Director, employees of the University System, and the Hearing Board or

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Hearing Officer may communicate with each other. Also, members of the Merit Board and the Hearing Board or Hearing Officer may have the aid and advice of one or more personal assistants.

- B) Communications regarding procedure, including interpretation and application of Section 360 of the Act, subsection (f), and related procedures, are not considered ex parte communications.
- 15) Role and Responsibilities of the Hearing Board or Hearing Officer. The Hearing Board or Hearing Officer shall be responsible for the following activities:
- A) Conduct the pre-hearing conference;
 - B) Facilitate the timely completion of the hearing process, taking necessary steps to avoid delay;
 - C) Establish reasonable limits on the duration of witness testimony;
 - D) Limit repetitive or cumulative testimony;
 - E) Rule on motions, objections or evidentiary questions;
 - F) Hear evidence as presented at the hearing by the employer and the employee on behalf of their respective positions (the evidence may include matters in aggravation, mitigation and justification, which may pertain to the question of "just cause" for discharge);
 - G) Direct questions to witnesses at any time, but restrict questioning to the clarification of the testimony already presented;
 - H) Prepare and transmit to the Merit Board a signed findings of fact within 15 calendar days after receipt of the transcript and exhibits of the hearing proceedings. The findings of fact shall set forth each of the written charges alleged in the Written Charges for Discharge, including an evaluation of the facts presented by the employer and employee with respect to each charge, and based on this evaluation, a determination as to whether the charges are

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sufficiently supported by the evidence presented. The findings of fact shall be based exclusively on the evidence and on matters officially noticed. The findings of fact presented by the Hearing Board or Hearing Officer are advisory only to the Merit Board. It is not the role of the Hearing Board or Hearing Officer to determine whether just cause for discharge exists. The determination of just cause is the sole province of the Merit Board; and

D) Enter any order that further carries out the purpose of this Section.

16) Settlement Agreements. Following the request for a hearing by the employee set forth in subsection (f)(3)(A), the employer and the employee may enter into a Settlement Agreement that may include a suspension of no more than 120 days. Such a suspension is only permissible if the employer files with the Secretary for the Merit Board the terms of that suspension, which must include a signed waiver of the rights provided by Section 360 of the Act. The employer is otherwise limited to a suspension of no more than 30 calendar days as set forth in subsection (e).

1746) Final Decision of the Merit Board. In the course of reaching its decision, the Merit Board may request the Executive Director to make recommendations that he/she deems appropriate with respect to the discharge proceedings. Nothing in this subsection (f)(~~1746~~) is intended to eliminate or limit the Merit Board's discretion to determine the appropriate disposition on a case-by-case basis. The Merit Board shall enter findings of fact and shall order the following decision and order or any other decision and order it deems appropriate:

- A) Discharge, if just cause is found to exist. No employee shall be discharged except for just cause. Just cause is defined as some substantial shortcoming that renders the employee's continuance in his/her position in some way detrimental to the discipline and efficiency of the service and that the law and sound public opinion recognize as good cause for the employee no longer holding the position; or
- B) Reinstatement, if just cause for discharge is found not to exist. An employee shall be reinstated as follows:

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- i) Reinstatement with no loss of compensation when none of the significant charges are proven.
- ii) Reinstatement with an unpaid suspension of a minimum of ~~360~~ days to a maximum of 120 days when the proven charges do not rise to the level of just cause for discharge, but some disciplinary action is justified based on the severity of the proven charges. If the Merit Board orders reinstatement with a suspension, any time served while on suspension pending discharge will be applied towards the fulfillment of the suspension. The Merit Board shall not order a reinstatement with a suspension past the day of the action taken by the Merit Board.

1817) Final Decision and Order of the Merit Board. The Secretary for the Merit Board shall immediately forward copies of all Merit Board orders to the employer and the employee by an overnight delivery service that requires signature upon receipt.

1948) Administrative Review. All final decisions of the Merit Board shall be subject to appeal by the parties to the proceedings under the Administrative Review Law [735 ILCS 5/Art. III]. A complaint for administrative review must be filed and summons issued within 35 days after the date that a copy of the final Merit Board decision has been served upon the party affected. A final decision of the Merit Board shall be deemed served either when personally delivered or when deposited in the United States mail in a sealed envelope or package, with postage paid, addressed to the party affected by the decision at his/her last known residence or place of business.

2019) Time Period Proceedings

- A) On the motion of either party with notice to the other party, or by independent action of the Chair of the Merit Board or the Executive Director communicated to both parties, any time period set forth in this subsection (f) may be extended by the Chair of the Merit Board or by the Executive Director for good cause shown.
- B) No extension may be beyond a period established by statute,

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except for cases in which a written motion for continuance of a scheduled hearing is filed with the Secretary for the Merit Board at least 48 hours prior to the time scheduled for hearing, unless an exception is granted by the Executive Director. The moving party must set forth emergency grounds for a continuance, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God; the sudden illness or death of the movant, a member of his or her immediate family, or his/her legal counsel; or if the movant is able to demonstrate some other real and compelling need for additional time. If there is an arrest or criminal indictment of any employee that resulted from an employee's conduct in the course of employment duties, the Executive Director, at the request of the employee, may grant a continuance of hearing pending some resolution of the criminal charges. Requests for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance.

- C) The time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall be deemed directory and not mandatory; and no failure to comply with any of the time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(3)(B) of this Section and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall cause the Merit Board to lose jurisdiction of any matter.
- D) If the last date for filing falls on a weekend or legal holiday, the last date for filing is the first business day following that weekend or legal holiday.

2120) Reason for Discharge. Causes justifying discharge and any suspension during the discharge proceedings shall include, but are not limited to: all those listed as cause for suspension if they become recurring offenses; and, in addition, theft; drinking intoxicating liquors on institutional time or property; inability to perform satisfactorily assigned duties as a result of drinking alcoholic beverages; malicious damage to property, tools or

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equipment; immoral or indecent conduct that violates common decency or morality; conviction of an offense involving moral turpitude; illegal or excessive use of drugs, narcotics and/or intoxicants.

2221) Hearing Expenses. All customary and reasonable court reporter and copying expenses incident to the preparation of the Hearing Record and providing copies to parties to the proceedings shall be paid by the employer. The Merit Board shall pay all expenses of the Hearing Board or Hearing Officer and any legal expenses incurred by a Hearing Board or Hearing Officer, to the extent that those expenses have been approved by the Merit Board or its Executive Director.

g) Demotion

- 1) Any of the actions described in this subsection (g)(1) is considered to be a demotion when that action has been initiated by the employer. A demotion may occur when a status employee:
 - A) is subject to a reduction in salary in his/her current position, or in a position of the same class to which he/she has been reassigned, except when the reduction in pay results from an overall reduction in pay to persons employed in the same class and/or when the Merit Board, on the basis of supporting evidence, determines that the pay potential should be lowered for a class;
 - B) is subject to a reduction in percentage of time worked;
 - C) is appointed to a position in a lower class in a promotional line;
 - D) is appointed to a position in a class outside a promotional line with a lower pay potential;
 - E) is given a nonstatus appointment.
- 2) None of the actions described in subsection (g)(1) are considered to be a demotion when the action has been initiated, or willingly accepted, by the employee.
 - A) Evidence of initiation by, or willing acceptance by, an employee

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shall be: a statement signed by the employee (to be filed by the employer with the notice of employment) indicating that the new appointment is at his/her request and/or is acceptable to him/her, or the employee applied for, and took, the Civil Service examination, upon the results of which the new appointment is based, after the date of certification to his/her most recent position.

- B) Without the evidence indicated in subsection (g)(2)(A), the action will be considered to have been initiated by the employer and, therefore, will be considered to be a demotion.
- 3) Any classification plan changes authorized and implemented by the University System and/or the Merit Board that may result in a lower pay potential will not be considered a demotion.
- 4) An employer may effectuate a demotion by filing a Notice of Demotion form with the Merit Board and serving a copy of the Notice of Demotion on the employee by an overnight delivery service that requires signature upon receipt, or by personally serving the employee. The Notice of Demotion form shall designate the position and class to which the employee has been demoted and shall factually state the causes justifying demotion. The effective date of the demotion shall be the "Proof of Service on Employee" date on the Notice of Demotion form. A demotion shall be subject to the same hearing and review procedures as are provided an employee in the case of a discharge. (See subsection (f).) During any hearing and review proceedings, the employee shall be paid the approved rate for the class of the position to which he/she has been demoted, as set forth in the Notice of Demotion form.
- 5) A status employee who is demoted to a position in a class in which he/she has never been employed on a status appointment may qualify for the position to which he/she is demoted, if his/her name is not already on an eligible register for that class, by taking the examination given to all other applicants for this class as promptly as possible following demotion to the class. The employee must pass the examination as a condition to retaining his/her appointment.
- h) Dismissal

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF ADOPTED AMENDMENTS

- 1) An employer may dismiss an employee whose name has been certified and who has been subsequently employed in a status position at any time during the probationary period of employment in a class, if the employer determines, pursuant to Section 250.90(a), that the employee has failed to demonstrate the ability and the qualifications necessary to furnish satisfactory service.
- 2) The employer shall notify the Executive Director promptly of dismissals, setting forth the reasons for the dismissal.

(Source: Amended at 43 Ill. Reg. 6829, effective May 23, 2019)

ILLINOIS RACING BOARD

NOTICE OF WITHDRAWAL TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Prohibited Conduct (Repealer)
- 2) Code Citation: 11 Ill. Adm. Code 423
- 3)

| | |
|-------------------------|-----------------|
| <u>Section Numbers:</u> | <u>Actions:</u> |
| 423.10 | Withdrawal |
| 423.20 | Withdrawal |
| 423.30 | Withdrawal |
- 4) Date Notice of Proposed published in the *Illinois Register*: 42 Ill. Reg. 23707; December 21, 2018
- 5) Date JCAR Statement of Objection published in the *Illinois Register*: 43 Ill. Reg. 4027; March 29, 2019
- 6) Summary of Action Taken by Agency: Withdrawal. At its meeting on March 12, 2019, the Joint Committee on Administrative Rules voted to object to the rulemaking because the repeal of this Part would allow the Board to determine, outside of rule, what is considered prohibited conduct by a licensee.

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

- 1) Heading of the Part: Residential Mortgage License Act of 1987
- 2) Code Citation: 38 Ill. Adm. Code 1050
- 3) Section Numbers: 1050.950
- 4) Date Proposal published in *Illinois Register*: 43 Ill. Reg. 18; January 4, 2019
- 5) Date Adoption published in *Illinois Register*: 43 Ill. Reg. 5272; May 10, 2019
- 6) Summary and Purpose of Expedited Correction: In Section 1050.950(b), "Identifier" is being replaced with "Identifler". This requested correction qualifies under Section 5-85(b) of the Illinois Administrative Procedure Act [5 ILCS 100].
- 7) Information and questions regarding this request shall be directed to:

Craig Cellini
Department of Financial and Professional Regulation
320 West Washington Street, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

The full text of the Requested Expedited Correction begins on the next page:

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 1050

RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

SUBPART A: DEFINITIONS

Section

| | |
|----------|--|
| 1050.100 | High Risk Home Loan Definitions; Applicability |
| 1050.110 | Definitions |
| 1050.115 | Administrative Decision (Repealed) |
| 1050.120 | Assisting (Repealed) |
| 1050.125 | Commissioner (Repealed) |
| 1050.130 | Control (Repealed) |
| 1050.132 | Conviction or Convicted (Repealed) |
| 1050.135 | Document (Repealed) |
| 1050.140 | Employee (Repealed) |
| 1050.145 | First Tier Subsidiary (Repealed) |
| 1050.150 | Hearing Officer (Repealed) |
| 1050.155 | High Risk Home Loan (Repealed) |
| 1050.157 | Licensee (Repealed) |
| 1050.160 | Material (Repealed) |
| 1050.165 | Other Regulatory Agencies (Repealed) |
| 1050.170 | Party (Repealed) |
| 1050.175 | Principal Place of Business (Repealed) |
| 1050.180 | Repurchase a Loan (Repealed) |
| 1050.185 | State (Repealed) |
| 1050.190 | Servicer (Repealed) |
| 1050.195 | Points and Fees (Repealed) |
| 1050.197 | Total Loan Amount (Repealed) |
| 1050.198 | Approved Credit Counselor (Repealed) |
| 1050.199 | Home Equity Loan (Repealed) |

SUBPART B: FEES

Section

| | |
|----------|-------------------------|
| 1050.210 | Fees |
| 1050.220 | License Fees (Repealed) |

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

- 1050.230 Amended License Fees – Corporate Changes (Repealed)
- 1050.240 Duplicate Original License Fees (Repealed)
- 1050.245 Loan Originator Registration Application Fee (Repealed)
- 1050.246 Loan Originator Registration Transfer Fee (Repealed)
- 1050.247 Loan Originator Registration Reactivation Fee (Repealed)
- 1050.248 Duplicate Loan Originator Certificate of Registration or Pocket Card Fee (Repealed)
- 1050.250 Examination Fees (Repealed)
- 1050.255 Direct Expenses of Out-of-State Examinations (Repealed)
- 1050.260 Additional Full-Service Office Fees (Repealed)
- 1050.270 Hearing Fees (Repealed)
- 1050.280 Late Fees (Repealed)
- 1050.290 Manner of Payment (Repealed)

SUBPART C: LICENSING

Section

- 1050.310 Application for an Illinois Residential Mortgage License
- 1050.320 Application for Renewal of an Illinois Residential Mortgage License (Repealed)
- 1050.330 Waiver of License Fee
- 1050.340 Full-Service Office
- 1050.350 Additional Full-Service Office
- 1050.360 Continuing Education Requirements for Certain Employees (Repealed)
- 1050.370 Licensing of Mortgage Loan Originators

SUBPART D: OPERATIONS AND SUPERVISION

Section

- 1050.410 Net Worth
- 1050.420 Line of Credit (Repealed)
- 1050.425 Examination
- 1050.430 Late Audit Reports
- 1050.440 Escrow
- 1050.450 Audit Workpapers
- 1050.460 Selection of Independent Auditor (Repealed)
- 1050.470 Proceedings Affecting a License
- 1050.475 Change in Business Activities
- 1050.480 Change of Ownership, Control or Name or Address of Licensee
- 1050.490 Bonding Requirements

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE
BROKERAGE ACTIVITY, PURCHASING ACTIVITY,
AND MORTGAGE SERVICING ACTIVITY

Section

| | |
|----------|--------------------------------------|
| 1050.610 | Filing Requirements |
| 1050.620 | Reporting Forms |
| 1050.630 | Annual Report of Mortgage Activity |
| 1050.640 | Annual Report of Brokerage Activity |
| 1050.650 | Annual Report of Servicing Activity |
| 1050.655 | Annual Report of Purchasing Activity |
| 1050.660 | Verification |

SUBPART F: LOAN DELINQUENCY EXAMINATION

Section

| | |
|----------|--|
| 1050.710 | Computation of National Residential Mortgage Foreclosure Rate (Repealed) |
| 1050.720 | Computation of Illinois Residential Mortgage Foreclosure Rate (Repealed) |
| 1050.730 | Excess Foreclosure Rate (Repealed) |
| 1050.740 | Loan Delinquency Hearing |
| 1050.750 | Director's Authority – Unusually High Rate (Repealed) |

SUBPART G: SERVICING

Section

| | |
|----------|---|
| 1050.810 | New Loans |
| 1050.820 | Transfer of Servicing |
| 1050.830 | Real Property Tax and Hazard Insurance Payments |
| 1050.840 | Payment Processing |
| 1050.850 | Toll-Free Telephone Arrangement |
| 1050.860 | Payoff of Outstanding Mortgage Loan |
| 1050.870 | Compliance with Other Laws |

SUBPART H: ADVERTISING

Section

| | |
|----------|-----------------------------|
| 1050.910 | General Prohibition |
| 1050.920 | Definition of Advertisement |
| 1050.930 | Compliance with Other Laws |

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

- 1050.940 Requirements
- 1050.950 Misleading and Deceptive Advertising Prohibition

SUBPART I: LOAN BROKERAGE PRACTICES

- Section
- 1050.1010 Loan Brokerage Agreement
- 1050.1020 Loan Brokerage Disclosure Statement
- 1050.1030 Prohibited Practice

SUBPART J: LOAN APPLICATION PRACTICES

- Section
- 1050.1100 High Risk Home Loan Application Practices; Applicability
- 1050.1110 Borrower Information Document
- 1050.1120 Description of Required Documentation
- 1050.1130 Maintenance of Records (Repealed)
- 1050.1140 Loan Application Procedures
- 1050.1150 Copies of Signed Documents
- 1050.1160 Confirmation of Statements
- 1050.1170 Cancellation of Application
- 1050.1175 Loan Log
- 1050.1176 Record Retention
- 1050.1177 Required Loan Application File Documents
- 1050.1180 Ability to Repay
- 1050.1185 Verification of Ability to Pay Loan
- 1050.1186 Fraudulent or Deceptive Practices
- 1050.1187 Prepayment Penalty

SUBPART K: GENERAL LENDING PRACTICES

- Section
- 1050.1200 High Risk Home Loan Lending Practices; Applicability
- 1050.1210 Notice to Joint Borrowers
- 1050.1220 Inaccuracy of Disclosed Information
- 1050.1230 Changes Affecting Loans in Process (Repealed)
- 1050.1240 Prohibition of Unauthorized Lenders
- 1050.1250 Good Faith Requirements
- 1050.1260 Pre-paid Insurance Products and Warranties

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

| | |
|-----------|--|
| 1050.1270 | Refinancing Prohibited in Certain Cases |
| 1050.1272 | Balloon Payments |
| 1050.1275 | Financing of Certain Points and Fees |
| 1050.1276 | Payments to Contractors |
| 1050.1277 | Negative Amortization |
| 1050.1278 | Negative Equity |
| 1050.1280 | Counseling Prior to Perfecting Foreclosure Proceedings |

SUBPART L: COMMITMENT AND CLOSING PRACTICES

| | |
|-----------|--|
| Section | |
| 1050.1305 | Approval Notice (Repealed) |
| 1050.1310 | Inconsistent Conditions Prohibited |
| 1050.1315 | Avoidance of Commitment |
| 1050.1320 | Charges to Seller |
| 1050.1325 | Intentional Delay |
| 1050.1330 | No Duplication to Borrower of Seller's Costs |
| 1050.1335 | Fees and Charges |
| 1050.1340 | Refunds on Failure to Close |
| 1050.1345 | Representative at Closing |
| 1050.1350 | Compliance with Other Laws |
| 1050.1355 | Failure to Close – Disclosure |
| 1050.1360 | Escrow Account Agreements at Closing |

SUBPART M: EXEMPTION GUIDELINES

| | |
|-----------|---------------------------|
| Section | |
| 1050.1410 | General |
| 1050.1420 | Interpretative Guidelines |

SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

| | |
|-----------|------------------------|
| Section | |
| 1050.1510 | Applicability |
| 1050.1520 | Definitions (Repealed) |
| 1050.1530 | Filing |
| 1050.1540 | Form of Documents |
| 1050.1550 | Computation of Time |
| 1050.1560 | Appearances |

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

| | |
|-----------|---|
| 1050.1570 | Request for Hearing |
| 1050.1580 | Notice of Hearing |
| 1050.1590 | Service of the Notice of Hearing |
| 1050.1595 | Bill of Particulars or Motion for More Definite Statement |
| 1050.1600 | Motion and Answer |
| 1050.1610 | Consolidation and Severance of Matters – Additional Parties |
| 1050.1620 | Intervention |
| 1050.1630 | Postponement or Continuance of Hearing |
| 1050.1640 | Authority of Hearing Officer |
| 1050.1650 | Bias or Disqualification of Hearing Officer |
| 1050.1660 | Prehearing Conferences |
| 1050.1670 | Discovery |
| 1050.1680 | Subpoenas |
| 1050.1690 | Conduct of Hearing |
| 1050.1700 | Default |
| 1050.1710 | Evidence |
| 1050.1720 | Hostile Witnesses |
| 1050.1730 | Record of Proceedings |
| 1050.1740 | Briefs |
| 1050.1750 | Hearing Officer's Recommendation |
| 1050.1760 | Order of the Director |
| 1050.1770 | Rehearings and Reopening of Hearings |
| 1050.1790 | Costs of Hearing |

SUBPART O: MORTGAGE AWARENESS PROGRAM

| | |
|-----------|-------------------------------------|
| Section | |
| 1050.1800 | Applicability |
| 1050.1810 | General |
| 1050.1820 | Guidelines |
| 1050.1830 | Offer of Mortgage Awareness Program |

SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

| | |
|-----------|---|
| Section | |
| 1050.1900 | Applicability |
| 1050.1910 | Report of Default and Foreclosure Rates on Conventional Loans |
| 1050.1920 | Director's Review and Analysis |

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBPART Q: THIRD PARTY REVIEW OF HIGH RISK HOME LOANS

Section

- 1050.2000 Applicability
- 1050.2010 Third Party Review of High Risk Home Loans

SUBPART R: REGISTRATION OF LOAN ORIGINATORS

Section

- 1050.2100 Mortgage Loan Originators; Applicability (Repealed)
- 1050.2110 Application for Registration (Repealed)
- 1050.2112 Evaluation of Applications (Repealed)
- 1050.2115 Examination (Repealed)
- 1050.2120 Continuing Education Requirements for Loan Originators (Repealed)
- 1050.2125 Certificate of Registration Issuance (Repealed)
- 1050.2130 Roster of Registered Loan Originators (Repealed)
- 1050.2135 Pocket Card (Repealed)
- 1050.2140 Certificate of Registration Renewal (Repealed)
- 1050.2145 Certificate of Registration Transfer Application or Inactive Notice (Repealed)
- 1050.2150 Inactive Registration Status; Reactivation (Repealed)
- 1050.2155 Temporary Permits (Repealed)
- 1050.2160 Confidential Information (Repealed)
- 1050.2165 Averments (Repealed)
- 1050.2170 Suspension or Revocation of Registration, Refusal to Renew, Fines (Repealed)
- 1050.2175 Loan Originator Hearings; Fees and Costs (Repealed)
- 1050.2180 Criminal Proceedings (Repealed)
- 1050.2185 Violations of Tax Acts (Repealed)
- 1050.2190 Disciplinary Action for Educational Loan Defaults (Repealed)
- 1050.2195 Nonpayment of Child Support (Repealed)

SUBPART S: PROVISIONAL REGISTRATION OF LOAN ORIGINATORS

Section

- 1050.2200 Purpose (Repealed)
- 1050.2210 Definitions (Repealed)
- 1050.2220 Registration Required (Repealed)
- 1050.2230 Exemptions (Repealed)
- 1050.2240 Application for Provisional Certificate of Registration; Contents; Amendment (Repealed)

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

- 1050.2250 Issuance of Provisional Certificate of Registration; Effective Date; Conditions (Repealed)
1050.2260 Loan Origination Practices (Repealed)
1050.2270 Enforcement (Repealed)

- 1050.APPENDIX A Estimated Monthly Income and Expenses Worksheet (Repealed)
1050.APPENDIX B Mortgage Ratio Worksheet (Repealed)

AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg. 3041, and new Part adopted by emergency rule at 12 Ill. Reg. 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill. Reg. 8683, and new Part adopted at 12 Ill. Reg. 8685, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective May 18, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 388, effective January 1, 1996; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 21 Ill. Reg. 10972, effective August 1, 1997; amended at 22 Ill. Reg. 230, effective December 19, 1997; amended at 24 Ill. Reg. 64, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 19322, effective December 15, 2000, for a maximum of 150 days; emergency repealed at 25 Ill. Reg. 3696, effective January 30, 2001 in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1857; amended at 25 Ill. Reg. 6174, effective May 17, 2001; emergency amendment at 27 Ill. Reg. 10783, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 797, effective December 29, 2003; emergency amendment at 28 Ill. Reg. 7137, effective April 30, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 10352, effective June 29, 2004; amended at 28 Ill. Reg. 13351,

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

effective September 21, 2004; amended at 29 Ill. Reg. 14808, effective September 26, 2005; amended at 29 Ill. Reg. 19187, effective November 10, 2005; amended at 34 Ill. Reg. 17339, effective October 29, 2010; amended at 36 Ill. Reg. 250, effective January 1, 2012; amended at 38 Ill. Reg. 2019, effective December 27, 2013; amended at 41 Ill. Reg. 12405, effective October 6, 2017; amended at 43 Ill. Reg. 5272, effective May 10, 2019; expedited correction at 43 Ill. Reg. _____, effective May 10, 2019.

SUBPART H: ADVERTISING

Section 1050.950 Misleading and Deceptive Advertising Prohibition

Advertisements by licensees shall not be false, misleading or deceptive. Examples of prohibited advertising include but are not limited to the following:

- a) No advertisement regarding residential mortgage lending or brokering may indicate or imply that interest rates or charges for loans are in any way "recommended", "approved", "set" or "established" by the State or the Act;
- b) The NMLS Unique ~~Identifier~~Identifier of the licensee shall not appear in any advertisement relating to activities other than residential mortgage lending or brokering, unless wording relating to the licensee's residential mortgage services also appears in the such advertisements and in prominence equal to or greater than the language regarding its other activities.

(Source: Amended at 43 Ill. Reg. 5272, effective May 10, 2019; expedited correction at 43 Ill. Reg. _____, effective May 10, 2019)

ILLINOIS GAMING BOARD

NOTICE OF WITHDRAWAL OF PROPOSED RULEMAKING

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3)

| | |
|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
| 1800.110 | Amendment |
| 1800.420 | Amendment |
- 4) Date Notice of Proposed Rulemaking published in the *Illinois Register*: 41 Ill. Reg. 12670; October 13, 2017
- 5) Reason for the Withdrawal: JCAR objected to the Illinois Gaming Board's rulemaking titled Video Gaming (General) because the proposed rulemaking does not accurately reflect IGB's internal administrative decision making process, specifically license issuance and denial provisions and appeal hearing procedures. The Agency failed to respond. Pursuant to Section 5-110(f) of the Illinois Administrative Procedure Act, a failure to respond to a JCAR Objection constitutes a withdrawal of the rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
MICHAEL A. BILANDIC BUILDING
ROOM C600
CHICAGO, ILLINOIS
JUNE 11, 2019
11:00 A.M.

***NOTICE:** It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGS

Agriculture

1. Illinois Pesticide Act (8 Ill. Adm. Code 250)
 - First Notice Published: 43 Ill. Reg. 4045 – 4/5/19
 - Expiration of Second Notice: 7/4/19
2. Standard, Thoroughbred and Quarter Horse Breeding and Racing Program (8 Ill. Adm. Code 290)
 - First Notice Published: 43 Ill. Reg. 3054 – 3/8/19
 - Expiration of Second Notice: 6/19/19
3. Municipal Agricultural Areas (8 Ill Adm. Code 955)
 - First Notice Published: 43 Ill. Reg. 4047 – 4/5/19
 - Expiration of Second Notice: 7/4/19

Attorney General

-
4. Hospital Financial Assistance under the Fair Patient Billing Act (77 Ill. Adm. Code 4500)
 - First Notice Published: 43 Ill. Reg. 3068 – 3/8/19
 - Expiration of Second Notice: 6/23/19

Board of Higher Education

5. Nursing School Grant Program (23 Ill. Adm. Code 1100)
 - First Notice Published: 43 Ill. Reg. 3106 – 3/8/19
 - Expiration of Second Notice: 6/16/19

Central Management Services

6. The Travel Regulation Council (80 Ill. Adm. Code 3000)
 - First Notice Published: 43 Ill. Reg. 3072 – 3/8/19
 - Expiration of Second Notice: 7/6/19

Commerce Commission

7. Regulatory Accounting Treatment for Cloud-Based Computing Solutions (83 Ill. Adm. Code 289)
 - First Notice Published: 42 Ill. Reg. 12369 – 7/6/18
 - Expiration of Second Notice: 6/18/19

Community College Board

8. Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501)
 - First Notice Published: 42 Ill. Reg. 20592 – 11/26/18
 - Expiration of Second Notice: 7/4/19

Financial and Professional Regulation

9. Illinois Dental Practice Act (68 Ill. Adm. Code 1220)
 - First Notice Published: 42 Ill. Reg. 19144 – 10/26/18
 - Expiration of Second Notice: 7/16/19

Human Services

10. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
 - First Notice Published: 43 Ill. Reg. 4054 – 4/5/19
 - Expiration of Second Notice: 7/5/19

Insurance

-
11. Workers' Compensation Electronic and Standardized Paper Billing (50 Ill. Adm. Code 2908)
 - First Notice Published: 43 Ill. Reg. 960 – 1/11/19
 - Expiration of Second Notice: 6/29/19

Revenue

12. Income Tax (86 Ill. Adm. Code 100)
 - First Notice Published: 42 Ill. Reg. 19605 – 11/9/18
 - Expiration of Second Notice: 6/21/19

Secretary of State

13. Secretary of State Standard Procurement (44 Ill. Adm. Code 2000)
 - First Notice Published: 43 Ill. Reg. 3868 – 3/29/19
 - Expiration of Second Notice: 7/5/19

State University Retirement System

14. Universities Retirement (80 Ill. Adm. Code 1600)
 - First Notice Published: 43 Ill. Reg. 3163 – 3/8/19
 - Expiration of Second Notice: 6/16/19

EXEMPT RULEMAKINGS

Pollution Control Board

15. RCRA Permit Program (35 Ill. Adm. Code 703)
 - First Notice Published: 43 Ill. Reg. 2613 – 3/1/19
16. Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
 - First Notice Published: 43 Ill. Reg. 2654 – 3/1/19
17. Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)
 - First Notice Published: 43 Ill. Reg. 2722 – 3/1/19
18. Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
 - First Notice Published: 43 Ill. Reg. 2795 – 3/1/19
19. Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)
 - First Notice Published: 43 Ill. Reg. 2837 – 3/1/19

20. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
-First Notice Published: 43 Ill. Reg. 2843 – 3/1/19
21. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
-First Notice Published: 43 Ill. Reg. 2895 – 3/1/19
22. Standards for Owners and Operators of Hazardous Waste Facilities Operating under a RCRA Standardized Permit (35 Ill. Adm. Code 727)
-First Notice Published: 43 Ill. Reg. 2924 – 3/1/19
23. Standards for Universal Waste Management (35 Ill. Adm. Code 733)
-First Notice Published: 43 Ill. Reg. 2945 – 3/1/19
24. Standards for the Management of Used Oil (35 Ill. Adm. Code 739)
-First Notice Published: 43 Ill. Reg. 2953 – 3/1/19

AGENCY RESPONSE

Environmental Protection Agency

25. Procedure for the Certification of Operations of Wastewater Treatment Works (35 Ill. Adm. Code 380)
-First Notice Published: 42 Ill. Reg. 8033 – 5/18/18

Labor

26. Minimum Wage Law (56 Ill. Adm. Code 210)
-First Notice Published: 42 Ill. Reg. 17091 – 9/28/18

Public Health

27. Alzheimer's Disease and Related Dementias Services Code (77 Ill. Adm. Code 973)
-First Notice Published: 42 Ill. Reg. 19510 – 11/2/18

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of May 21, 2019 through May 27, 2019. These rulemakings are scheduled for the June 11, 2019 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| <u>Second Notice Expires</u> | <u>Agency and Rule</u> | <u>Start of First Notice</u> | <u>JCAR Meeting</u> |
|--------------------------------------|---|--------------------------------------|-------------------------|
| 7/4/19 | <u>Community College Board</u> , Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501) | 11/26/18 42 Ill. Reg. 20592 | 6/11/19 |
| 7/4/19 | <u>Agriculture</u> , Municipal Agricultural Areas (8 Ill. Adm. Code 955) | 4/5/19 43 Ill. Reg. 4047 | 6/11/19 |
| 7/4/19 | <u>Agriculture</u> , Illinois Pesticide Act (8 Ill. Adm. Code 250) | 4/5/19 43 Ill. Reg. 4045 | 6/11/19 |
| 7/5/19 | <u>Human Services</u> , Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113) | 4/5/19 43 Ill. Reg. 4054 | 6/11/19 |
| 7/5/19 | <u>Secretary of State</u> , Secretary of State Standard Procurement Act (44 Ill. Adm. Code 2000) | 3/29/19 43 Ill. Reg. 3868 | 6/11/19 |
| 7/6/19 | <u>Central Management Services</u> , The Travel Regulation Council (80 Ill. Adm. Code 3000) | 3/8/19 43 Ill. Reg. 3072 | 6/11/19 |

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

JULY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citation): The Administration and Operation of the Teachers' Retirement System, 80 Ill. Adm. Code 1650
- 1) Rulemaking:
- A) Description: Update rules pertaining to mandatory distribution, EFT, post-retirement limitations, Tier II benefits, and optional service as needed.
- B) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].
- C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Sandy Cochran
Teachers' Retirement System
Office of Legal Counsel
P.O. Box 19253
2815 West Washington
Springfield IL 62794-9253
- 217/814-2041
- G) Related rulemakings and other pertinent information: None

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 43, Issue 23 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

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| 29 - 610 | | 6700 |
| 47 - 395 | | 6712 |
| 11 - 1800 | | 6874 |

ADOPTED RULES

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| 89 - 140 | 5/28/2019 | 6736 |
| 89 - 146 | 5/28/2019 | 6803 |
| 77 - 973 | 5/23/2019 | 6810 |
| 26 - 213 | 5/21/2019 | 6819 |
| 80 - 250 | 5/23/2019 | 6829 |

**AGENCY WITHDRAWAL IN RESPONSE
TO A STATEMENT OF OBJECTION**

| | | |
|----------|-------|------|
| 11 - 423 | | 6863 |
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**REQUEST FOR EXPEDITED
CORRECTION**

| | | |
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| 38 - 1050 | | 6864 |
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REGULATORY AGENDA

| | | |
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| 80 - 1650 | | 6880 |
|-----------|-------|------|